

SURRENDERING THE HIGHER GROUND: THE ABUSE OF COMBATANTS
DURING WAR

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SURRENDERING THE HIGHER GROUND: THE ABUSE OF COMBATANTS DURING WAR

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What explains the differences in the ways captor states choose to treat enemy prisoners during war? Why are the rights of some prisoners rigorously upheld, while in other cases they are viewed as expendable? I argue the abuse of captured combatants largely flows from the nature of the belligerents and bloodshed during war. According to the nature of the belligerents, I argue that democracies are less likely on average to abuse prisoners than their autocratic counterparts. However, I propose the reasons for this democratic distinctiveness are less a function of domestic norms of individual rights or nonviolence, but more due to the greater sensitivity of democracies to fears over retaliation as well as to the strategic benefits possible through good conduct. On the other hand, the bloodshed wrought by the aims states seek to attain through war, along with the severity of the fighting, strongly increase the chances that states will abuse their prisoners. In order to assess these arguments, I construct a new data set on the treatment of captured combatants during all interstate wars from 1898 to 2003. I then provide further support for the findings from the quantitative analysis using a series of in-depth case studies of several episodes of both the abuse and humane treatment of enemy prisoners.

BIOGRAPHICAL SKETCH

Geoffrey Wallace was born and raised in Toronto, Canada. He pursued his undergraduate studies in the same city at the University of Toronto, Victoria College, where he majored in Economics and International Relations. After completing his Honour's B.A. in 2001, he then entered the university's Collaborative M.A. program in International Relations and Political Science at the Munk Centre for International Studies. Geoffrey then left academia for a year to pursue a Canadian Ministry of Foreign Affairs and International Trade (DFAIT) internship at the Atlantic Council of the United States in Washington, D.C. While on the DFAIT internship, he decided to apply to Ph.D. programs and began at Cornell University's Government Department in the fall of 2003. Geoff's major field is International Relations with a minor in Comparative Politics. His dissertation investigates differences in the treatment of prisoners during interstate wars. Geoff expects to defend his dissertation during the summer of 2009. His broader research interests include international security, international institutions, and public opinion toward foreign policy.

For Sophia

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CHAPTER 1

INTRODUCTION

The whole right which war can give over captives is to secure their person so that they can no longer do any harm.

- Baron de Montesquieu

Make no prisoners

- Roman General Germanicus¹

These brief, yet telling, quotes succinctly embody two contrasting but ultimately enduring traditions regarding the treatment of combatants who become prisoners during war. On the one hand is the liberal tradition reflected in the writings of Montesquieu and others, which holds that prisoners are deserving of the utmost care and respect. By entering into captivity, prisoners are in effect engaging in a contract where in exchange for agreeing to lay down their arms and hand themselves over to the adversary, their captors in turn agree to treat them in a decent manner (Walzer 2000:46). War is certainly hell, but according to the liberal tradition combatants who surrender have removed themselves from the heat of battle. Once they do so they are no longer considered instruments of warfare, but rather become individual human beings and should be accorded all of the fundamental rights guaranteeing their health and well-being throughout the entire time they are under their captor's control. This perspective on the treatment of prisoners is a core tenet of just war theory and has been codified to an increasing extent in prevailing conventions on the laws of war.

Against this benevolent side of prisoner care lies the darker but widely held view typified by Germanicus and others, which demands a harsher fate for those unlucky enough to fall into enemy hands. In this light, war is most certainly hell and the rigors of battle carry over to all aspects of the fighting whether on or off the

¹ Both quotes are taken from a report by the Carnegie Endowment for International Peace on the Balkan wars from the early twentieth century (Carnegie Endowment 1993:215).

battlefield. Enemy combatants are not viewed as common human beings deserving of respect, but rather as objects to be dealt with or discarded as a captor see fit. In Roman antiquity, prisoners literally became a commodity where it was customary for captured soldiers to be sold as slaves or thrown into gladiator rings for the entertainment of the masses (Vance 2006:338-339). Although slavery became a less common fate, especially as it was eventually outlawed in the nineteenth century, the harsh punishment of prisoners has remained an all-too-common occurrence whether through torture, execution, hard labor, or a myriad of other forms of abuse. Facing such a dire future, it is not surprising that many soldiers preferred to continue fighting and face almost certain death rather than place themselves at the mercy of their captors, whether they were Soviet soldiers on the Eastern Front during the Second World War or U.S. troops in the jungles of Vietnam.

Where do the prospects for an ordinary soldier facing the decision to surrender fall between these two extreme perspectives? In many ways we might expect the future for prisoners to be fairly bleak indeed, and thus much closer to Germanicus's view on how they should and will be treated. After all, Winston Churchill provides probably the bluntest definition of a prisoner as a "man who tries to kill you and fails, and then asks you not to kill him" (Tsouras 2000:380).² Given the harsh realities that often prevail during wartime, it is perhaps not surprising that captors may possess a variety of motives for harming enemy combatants who fall under their control.

A perusal of the historical record suggests that states of all varieties are more than willing to abuse prisoners. For instance, it is difficult to discuss the subject of prisoner care without turning to recent U.S. policies toward detainees in the ongoing

² More accurately, Churchill's quote should refer to a man or a woman, though historically soldiers and consequently prisoners have overwhelmingly been male. For a discussion of the experience of women in captivity, see (Vance 2006:445-448).

War on Terror. Indefinite detention, torture, and other violations have garnered international condemnation as the United States continues to figure out how best to deal with suspected terrorists. Despite the purported tendency for democratic regimes to follow humane principles when waging war, recent U.S. conduct shows democracies can be just as susceptible as other regime types to combatant abuse given the right circumstances. Furthermore, Guantanamo, Abu Ghraib, and their ilk cannot be considered as isolated incidents or a singular departure from standard democratic principles, since there have been many past instances of democracies acting in a fairly harsh manner toward their prisoners. In the conflicts examined in this study, which focuses on all interstate wars from 1898 to 2003, I find in fact that about one-quarter of all warring democracies committed high levels of abuse against prisoners.³ Democracy does not appear to be a panacea, in and of itself at least, to guarantee the safety of prisoners during war.

The grim fate implied by Churchill's quote must be balance against a long list of instances where prisoner treatment followed much more closely the humane tenets of just war theory and international law. The generous care accorded to prisoners across many conflicts has even led to contrasting views like the following:

To-day the prisoner of war is a spoilt darling; he is treated with a solicitude for his wants and feelings which borders on sentimentalism. He is better treated than the modern criminal, who is infinitely better off, under the modern prison system, than a soldier on a campaign. Under present day conditions, captivity...is no sad sojourn by the waters of Babylon; it is usually a halcyon time, a pleasant experience to be nursed fondly in the memory, a kind of inexpensive rest-cure after the wearisome turmoil of the fighting. (Spaight 1911:265)

³ This is according to an index of combatant abuse that was developed for this project, which will be discussed in greater detail in subsequent chapters.

Given the purportedly sumptuous alternative of time spent in captivity rather than the risks of the battlefield, Spaight was amazed that soldiers would even choose to fight (Spaight 1911:265)! Spaight was an international legal scholar and his prim and proper account of the life of a surrendering soldier betokens more a *Pride and Prejudice* vision of prisoner care rather than the darker side more closely resembling Dante's *Inferno*. The timing of Spaight's comments is of course somewhat unfortunate, since it was just a few years before the First World War, which was not exactly known as a genteel or compassionate conflict in most respects. Despite his less than stellar predictive powers, Spaight's perspective does point to another side of the treatment of combatants where prisoners have on the whole been handled quite well.

What is also interesting about his comments is they were partly made in reference to the 1904-1905 Russo-Japanese War, which at first blush might be considered a least-likely case for good prisoner treatment. First, the war involved two autocracies not exactly known to be very humane to their own citizens back home, and consequently might show little regard for enemy combatants. Second, Russia and Japan came from very different cultural backgrounds which could pose the danger of creating greater animosity. Third, at times during the conflict the fighting became quite pitched, which might be expected to lead both sides to vent their frustrations or punish prisoners from the adversary. Despite these dangers both of the warring parties generally treated surrendering enemy soldiers in a decent manner (Hata 1996:257; Vance 2006:346-347).

Furthermore, looking more broadly and in a certain symmetry to the pattern for democracies, I find that across the interstate wars in this study around one-quarter of autocracies actually limit themselves to relatively low levels of abuse against their prisoners. Differences in the fate of surrendering soldiers across this brief selection of wars demonstrate that neither of the ideal type perspectives provides an adequate

account of the treatment of prisoners. Prisoners should not always be viewed as victims in dire straits where death is more than likely imminent, but nor should they always be considered pampered guests living in relative tranquility. More generally, the historical record indicates some puzzling patterns in the conduct of captor states toward prisoners, which are deserving of a more systematic examination.

The Question and Answer in Brief

This leads to the main research question of this study, what explains variation in the ways states choose to treat prisoners during war? Why are the rights of some prisoners rigorously upheld, while in other cases they are viewed as expendable? In simple terms, why are some prisoners horribly abused, while others are humanely treated? Despite the importance of these issues, there have been two main obstacles to adequately addressing this central research question. The first challenge is the lack of data on the treatment of combatants because no readily available indicator exists that is easy to measure. It is often difficult to obtain precise estimates for simply the total number of prisoners taken by each side during a given war, much less figures for those who lived or died. Even if death is certainly the most final and absolute outcome of captivity, many surviving prisoners still suffered greatly and may be maimed for the rest of their lives. Although many U.S. and British Commonwealth prisoners died under Japanese captivity, a great number continued to be in agony long after they were sent home due to the lasting effects of chronic hunger and disease (Vance 2006:464-465). To overcome some of these issues in accounting for the great variety evident in the type and degree of prisoner violations, I develop a broad categorical measure of combatant abuse and spent a great deal of time and effort gathering the necessary data.

The second and related obstacle is the lack of a clear theory of combatant abuse for developing and evaluating potential explanations for its causes. On this score as well I offer a framework for understanding under what conditions states are more

likely to treat prisoners humanely versus those circumstances in which they are more likely to treat them harshly manner. I argue that two key sets of factors are crucial for understanding patterns of combatant abuse, which I term the nature of the belligerents and the nature of the bloodshed.

The nature of the belligerents looks to attributes of the warring states themselves and, in particular, focuses on the role of regime type. I find that democracy, despite some notable exceptions, acts on average to restrain the resort to combatant abuse. I also argue that the reason for this democratic distinctiveness is less a function of any inherent domestic norms, such as nonviolence or the sanctity of the individual rights of enemy combatants. Instead, democratic institutions create greater incentives for democracies to reject combatant abuse more out of practical fears of retaliation or escalation by the adversary, as well as greater sensitivity to possible strategic benefits that can somewhat paradoxically be gained through good conduct. Humane prisoner treatment can confer military advantages by making it more likely remaining enemy forces will prefer to surrender and accept the relative certainty of captivity rather than continue to risk death on the battlefield. In this way, good conduct during war can ironically weaken the ability of the adversary to resist by reducing its fighting forces on the battlefield through surrender.

Other regime types may also be concerned with the risks of reciprocity of the advantages gained from humane conduct, but the argument I put forward is that the domestic institutions of democracies make them relatively more sensitive than their counterparts to these factors. Of course, if the incentives related to reciprocity or strategic advantages appear less forceful in a given war, then we may correspondingly expect democracies to act in a much more similar manner to their autocratic foes.

The second component turns to the nature of the bloodshed itself created through war. I find two key traits of the bloodshed are especially important for

understanding when higher levels of combatant abuse are more likely. The first trait is the severity of the fighting, especially conflicts that get bogged down into long and costly wars of attrition. Facing such dire circumstances resulting from all-out fighting, states are likely to become increasingly desperate to resort to combatant abuse as a tool of coercion to make the war more costly for their adversary, or to extract more from their prisoner population to facilitate the war effort. Worries over retaliation by the enemy are more likely to give way to the necessity of trying to find some way to coerce the adversary or extract more resources for warfighting.

The second trait concerns instead the aims states seek to achieve through war and the ways in which these goals condition their incentives when deciding how to treat enemy combatants. I argue not all aims are created equal and only in those cases where a state strives to conquer territory from its adversary is the resort to combatant abuse most likely. When seeking territorial annexation, combatant abuse is a brutal though potentially effective strategy for eliminating those elements of the adversary most capable of mounting a rebellion to the conquering state's continued hold on newly acquired lands. In this context concerns over retaliation or the possible benefits from good conduct are overshadowed by the longer-term advantages to be gained through combatant abuse.

Taken together, the nature of the belligerents and the bloodshed contributes to our understanding of when states are most likely to turn to abusing enemy combatants. Looming large behind both elements is the shadow of reciprocity. Fears of retaliation and reactions to conduct by the adversary greatly condition whether and to what degree states will resort to combatant abuse. In order to more fully grasp patterns of abuse, I find that the conduct of the opposing side must ultimately be taken into account as well. On the other hand, other often cited factors influencing the conduct of states during war are found to have less of an impact. Cultural and racial animosities

are often argued to contribute to greater levels of violence of all sorts between warring parties, but I find that belligerents from different cultural backgrounds are no more likely to commit higher levels of combatant abuse than those from a similar background. Greater relative material capabilities also do not provide much insight into patterns of abuse, since the weak appear to be just as likely as the strong to commit violations against prisoners under their control. Finally and perhaps more regrettably, international law and international norms do not appear to offer significant restraints against combatant abuse. Neither ratifying prevailing international treaties nor growing humanitarian norms favoring prisoner rights substantially reduce the chance that states will choose to abuse enemy combatants. The international community thus unfortunately still appears to have a long way to go before effectively translating the principles of the laws of war into practice.

Situating the Study

The vast majority of research on war has tended to concentrate on its causes more than on any other stage of the conflict (Blainey 1988; Levy 1989). In many ways this focus is not without good reason, since identifying those factors most likely to cause wars can help to avoid later horrors by preventing future wars from breaking out in the first place (Van Evera 1999:1-3). A similar motivation is often also behind the smaller but still substantial literature examining how and why wars end (Wittman 1979; Pillar 1983). By figuring out what factors make the termination of wars more likely, conflicts might be brought to a close in a quicker and potentially more agreeable manner to all parties involved.

This study instead falls into the smaller but growing literature on the conduct of states in the midst of war (e.g. Legro 1995; Gartner 1997). Warfare of various sorts remains an unfortunate yet enduring phenomenon in the contemporary world (Sarkees et al. 2003:60-61). Research on what factors lead states to behave in different ways

during the course of conflict does not necessarily imply an unconditional acceptance of the brutality that often typifies many wars. Understanding what drives the conduct of states during war has the potential to ameliorate the fate of those participating or thrust into battle, even if war itself remains an enduring part of international relations for the foreseeable future. For instance, Reiter and Stam provide a seminal study of the role of democracy on the ability of belligerents to win the wars they fight (Reiter and Stam 2002). My study should best be viewed as complementary to Reiter and Stam, since by looking at the treatment of prisoners I seek to systematically examine the importance of regime type for one particular element of the broader conduct of states during war. Furthermore, if democracies are more likely to treat their captives well and this translates into certain military benefits, then prisoner treatment may provide a further mechanism explaining the propensity of democracies to win their wars.

Looking at the treatment of combatants contributes to a growing body of work that examines the victims often created by war (Hartigan 1982; Grimsley and Rogers 2002). Recent research in this vein by Benjamin Valentino, Alexander Downes, and others has tended to focus overwhelmingly on violence against civilians (Downes 2006; Kalyvas 2006; Valentino et al. 2006; Downes 2007; 2008). As the unarmed and defenseless, civilians represent perhaps the most pitiful victims of warfare and are certainly deserving of current and future research. Other work has considered the treatment of combatants, but places prisoner issues within the broader context of compliance with the laws of war writ large (Morrow 2007). Turning to the abuse of combatants who have laid down their arms and surrendered departs from the existing civilian literature, but is in many ways complementary by bringing attention to another frequently forgotten casualty of war. This is thus the first study to date that specifically examines the causes of combatant abuse across a large number of conflicts.

In a similar manner to several studies on the targeting of civilians, I argue that the abuse of combatants largely follows a strategic logic.⁴ The nature of the belligerents and bloodshed framework emphasizes the role of particular incentives emanating either from the internal attributes of the warring parties themselves, or from the ensuing fighting, which influence their decisions on whether or not to resort to combatant abuse. This is in contrast to arguments emphasizing the importance of irrational hatreds as the primary driver of the conduct of states during war. Emotion and hatred may certainly play a role in certain cases, but do not provide much leverage for understanding broader patterns in the treatment of prisoners across wars.

A few comments are also in order limiting the scope of this study and to specify what it does not purport to accomplish. First, I do not claim to offer a comprehensive account of the abuse of prisoners across all forms of warfare. This study is confined to examining the causes of combatant abuse during interstate wars. Violence against prisoners certainly occurs during civil wars, counterinsurgency operations, or other wars involving non-state actors, but a closer examination of these conflicts is beyond the purview of this study. Collecting adequate data just for one class of conflicts was a daunting task, which meant that from a feasibility standpoint I decided it was necessary to limit the study to wars between states.

Nevertheless, it is instructive to keep in mind how my arguments for interstate wars would translate when applied to other types of conflict. For instance, the strategic gains from good conduct may be much smaller in such conflicts, especially if warring parties view the adversary as a stern foe unlikely to surrender in any event. If the

⁴ I use the term “strategic” in a similar sense to many other scholars studying the conduct of war to refer to decision making based on rational means-ends calculations rather than emotional or irrational hatreds (Valentino 2004:3; Downes 2006:170; 2008:10). This contrasts with another common usage drawn from game theory, which focuses on interactive decision making between multiple actors (Morrow 1994:1). However, the latter usage is still relevant when discussing the importance of reciprocity and combatant abuse.

potential benefits of obtaining intelligence through torture or other forms of abuse seem especially attractive, then the strategic advantages from good conduct may be less alluring. Furthermore, expectations of reciprocity may be more problematic in conflicts against non-state actors who are not organized and do not fight in a similar manner to traditional national militaries. If these and other restraints operate with less force in other types of conflict, then it follows for instance that democratic belligerents might be just as ruthless as other regime types in such situations. The question of combatant abuse in forms of conflict other than interstate warfare is set aside for much of this study, but will be taken up in a more concerted manner in the concluding chapter.

Second, I do not seek to provide a theory of every instance of combatant abuse committed by soldiers during interstate wars. War inevitably remains a dirty business. Even in conflicts that would be considered humane by most measures, atrocities can certainly still occur. The focus of this study is on the policy and practices of states toward enemy prisoners rather than isolated acts initiated by individual soldiers or small units of troops. The latter would require a theory of the conduct of individual soldiers, which is certainly an interesting topic, but deserving of an entire separate study on its own terms.⁵ Although more restricted, a study of the prisoner policies of warring states more closely matches existing research on the treatment of civilians. The best and worst cases of the treatment of prisoners more often than not involved active intervention by the government's civilian and military leadership in all aspects of prisoner care, whether this concerned encouraging or restraining combatant abuse.

⁵ Examples in this vein include (Bourke 1999; Ferguson 2004).

Why Should We Care about Combatant Abuse?

Even though the historical record points to some intriguing differences in the treatment of prisoners across wars, why should we be concerned with understanding the causes of combatant abuse? From a humanitarian point of view the stakes are not small, since the number of prisoners captured during most wars is often quite large. Most studies of warfare disregard the treatment of prisoners and instead focus on the number of battle deaths inflicted during the course of fighting (Small and Singer 1982:69-76; Lacina and Gleditsch 2005). Battle deaths are certainly crucial for understanding various facets of the strategies belligerents employ and the ultimate course of the war, but discount the full costs of war. For instance, the Soviet Union admittedly suffered an astonishing 7.5 million battle deaths during the Second World War, but against this must also be included over 3.3 million Soviet prisoners who died in captivity. This means that almost one in every three deaths of Soviet soldiers during the war was inflicted against prisoners outside of battle.⁶ Investigating the causes of combatant abuse is thus relevant to developing a more general understanding of the suffering caused by warfare.

The study of combatant abuse also has broader policy implications as well. The War on Terror has brought difficult questions to the fore regarding the rights of captives and the responsibilities of their captors. Although my argument is concerned with interstate conflict, the paucity of research on combatant abuse across warfare in general means this study can also be viewed as a starting point for grasping the

⁶ Figures for Soviet battle deaths are based on the Correlates of War (COW) data set on Inter-State War Participants version 3.0 (Sarkees 2000). Figures for prisoner deaths are taken from (Forster 1986:21). The number of prisoner deaths might even be an understatement, since prisoners who were summarily executed on the battlefield by German forces are likely included under the battle deaths total. It was common on the Eastern Front for the German Army to cooperate with so-called *Einsatzgruppen* (intervention groups), which were specially formed execution squads assigned to target Soviet prisoners and other undesired elements (Streit 1986:9). The relative ratio of prisoner-to-battle deaths should thus be viewed as a minimum estimate.

broader dynamics of prisoner treatment across other forms of armed conflict. Translating the logic underlying the nature of the belligerents and bloodshed framework, along with the many alternative explanations, to other types of conflicts remains an open though crucial question to address.

The finding that democracies are more likely to treat their prisoners decently has implications for the larger literature on the value of promoting democracy worldwide. The democratic peace has established that democracies are less likely to fight one another, but added to this is the further potential benefit that democracies may conduct themselves more humanely during war. However, the argument I put forward should not be viewed as supporting a democratic triumphalist perspective. Democracies may on average be less prone to abusing prisoners, but given the right circumstances they can turn on their captives if they believe the benefits outweigh the costs. Recent U.S. treatment of prisoners from Afghanistan and Iraq thus follows a long tradition of combatant abuse committed by democracies. Democracies may certainly conduct themselves more humanely overall, but a darker side to democratic regimes often looms not far below the surface and should not be ignored. Determining the scope of the restraints under which democracies are most likely to follow humanitarian principles is necessary for understanding the overall role of regime type in the conduct of states during war. Identifying potential limits on democratic restraints is also especially useful when thinking about the future conduct of states under all forms of conflict.

In a similar manner, although I find that international law and norms do not appear to greatly restrain combatant abuse, this does not imply they have no value whatsoever. Without norms or laws proscribing the use of violence against surrendering soldiers, studying violence against prisoners would be superfluous since

there would be nothing out of the ordinary in their suffering or death.⁷ In fact, the very measure of combatant abuse I construct draws directly from prevailing principles of international humanitarian law. Furthermore, international law also matters in the sense that states often feel they need to justify their policies toward prisoners during wartime in legal or moral terms. Other factors may ultimately play a greater role in determining the conduct of states toward enemy combatants, but international law and related norms remain an inescapable element of contemporary warfare.

Finally, combatant abuse does not operate in isolation but can have wide-ranging implications for the course of war, which can result in consequences that endure long afterwards. The treatment of prisoners of war and their eventual fate pose the danger of heightening animosities between already bitter rivals and thereby making wars even longer and bloodier than otherwise. For instance, the back and forth nature of the Korean War, where opposing armies marched up and down the Korean peninsula and the great powers of the United States and China clashed head on, certainly makes it count as one of the less renowned but brutal conflicts of the twentieth century.⁸ Despite many harsh realities to choose from, one prominent historian of the war, Max Hastings, found issues surrounding prisoners to be particularly deplorable:

No aspect of the Korean War was more grotesque than the manner in which the struggle was allowed to continue for a further sixteen months after the last substantial territorial obstacle to an armistice had been removed by negotiation in February 1952. From that date until the end in July 1953, on-the-line men endured the miseries of summer heat and winter cold, were maimed by mines and killed by napalm, small arms, and high explosives, while at Panmunjom [the main site for negotiations] the combatants wrangled around one bitterly

⁷ For a similar argument on the role of norms against the killing of civilians, see (Downes 2004:36).

⁸ Along with substantial U.S. and Chinese involvement, it should also be noted that the Korean conflict is interesting because it contained a certain civil war element in addition to its interstate character. Both the North and South Korean sides sought to become the legitimate authority over the entire peninsula.

contentious issue: the post-armistice exchange of prisoners (Hastings 1987:305).

As is evident from his remarks, the delay in ending the hostilities was not without consequences, since almost half of all U.S. casualties were suffered after the first armistice negotiations took place during which prisoner issues quickly became the central stumbling block (Hastings 1987:329).

The abuse of combatants also has the potential to spill over into other issue areas and cause further suffering both during and after war. Although far from conclusive, it has often been argued that one of the motivations behind the U.S. decision to drop the atomic bomb on Japan during the Second World War was partly in response to the brutal Japanese policy toward U.S. prisoners in the Pacific (Speed 1990:ix). In Europe during the same war, it is indicative that the first victims of the gas chambers at the Auschwitz concentration camp were not Jewish civilians but rather Soviet prisoners of war (Piper 1994:159; Ferguson 2004:185). In many ways the orders and policies that the German government formulated for the treatment of Soviet prisoners developed into the operational basis for carrying out the later Final Solution against the Jewish population (Streit 1986:2). Studying the treatment of enemy combatants thus has implications for understanding the broader conduct of states during war.

Plan for the Remainder of the Study

The remainder of the study is organized as follows. Chapter 2 provides a more detailed definition of combatant abuse and puts forward the main theoretical framework for understanding its causes based on the nature of the belligerents and the bloodshed. Chapter 3 then introduces a new data set on combatant abuse during interstate wars from 1898 to 2003. I discuss some of the challenges in developing an operation measure for the treatment of prisoners and then present some preliminary patterns in combatant abuse across interstate warfare. Chapter 4 provides a

quantitative analysis of the causes of combatant abuse using this data set. The results offer strong support for the restraining effect of democracy, while as expected the severity of the fighting and territorial war aims greatly increase the likelihood a state will resort to higher levels of combatant abuse. Across all of these results, the role of reciprocity stands not far behind in the background.

The next two chapters delve in greater detail to examine the logic underlying two elements drawn from the nature of the belligerents and bloodshed framework. Chapter 5 investigates what precisely seems to shape the conduct of democracies through a detailed examination of U.S. and British policy toward Axis prisoners during the Second World War. The evidence suggests democracies are driven less by normative commitments to domestic norms of nonviolence and individual rights, but rather institutional incentives related to concerns over retaliation by the Axis powers and the strategic benefits that could be gained through more humane conduct. However, I also argue that these restraints are fragile and that in many circumstances democracies can easily descend toward more brutal conduct. Chapter 6 then focuses on one trait of the nature of the bloodshed to determine why wars of territorial annexation are more likely to lead to higher levels of combatant abuse. Through a study of Soviet treatment of Polish prisoners during the Second World War, which culminated in the Katyn Forest massacre, I argue that the Soviet desire to conquer and hold on to Polish lands provides a better account for the timing and particular patterns of combatant abuse against Polish prisoners than alternative explanations. Chapter 7 concludes by discussing implications of the results for understanding broader issues in the conduct of states during war and offers several avenues for future research.

CHAPTER 2

THE CAUSES OF COMBATANT ABUSE: A CONCEPTUAL AND THEORETICAL FRAMEWORK

Introduction

What explains variation in the ways captor states choose to treat enemy prisoners during war? Why are the lives of some prisoners treated so cheaply, while in other instances captured combatants are diligently accorded the highest care and respect? Answers to these questions have implications not only for the immediate well-being of troops captured on the battlefield, but also for our more general understanding of the conduct of states during armed conflict. Even if they do not die in battle, the fortunes of soldiers once taken prisoner remain far from certain. Of the 91,000 German prisoners who surrendered at the end of the battle of Stalingrad during World War II, merely 5,000 survived to eventually return home (Rayfield 2005:396). Yet the conditions for prisoners of war are not always so stark, and at times even approach a reasonable level of comfort. During the Falklands War between Britain and Argentina, prisoners on both sides were treated in a decent manner despite the enmity felt between the two adversaries (Beaumont 1996:287-288; Vance 2006:129-130).

Differences in the treatment of prisoners over time, but even within the same war, are startling and beg for a more systematic investigation. I begin this chapter by developing a more precise definition of the concept of combatant abuse. Combatant abuse is defined as a military strategy enacted by the political or military leadership to harm or kill through various means enemy combatants who have laid down their arms. I then assess the costs and benefits that often arise when states decide whether or not to abuse combatants.

The third and fourth sections present a theory of combatant abuse, which centers on the nature of the belligerents and the bloodshed. The nature of the

belligerents concerns the warring states themselves and identifies particular national attributes that likely influence how they choose to treat enemy combatants who surrender. I argue that a state's regime type, and democracy in particular, creates incentives for democratic belligerents to exert more restraint than their autocratic counterparts when deciding how to treat their prisoners. Normative and institutional approaches offer very different accounts to explain why democracies appear to act differently than other regime types. Democratic norms of respect for individual rights or restraints on the use of violence may make democracies more averse to inflicting abuses on prisoners. From an alternative institutional perspective, I propose that the restraining effect of democracy is a result of the higher sensitivity of democracies to the costs of retaliatory abuses as well as greater attention to some of the paradoxical benefits to be gained from good conduct.

In the fourth section, I turn to the next theoretical component, which concerns the nature of the actual bloodshed wrought through war. I argue that two key attributes of the bloodshed are particularly salient and heighten the likelihood that states will resort to combatant abuse. The severity of the fighting on the battlefield increases incentives for states to use combatant abuse to coerce their opponent or extract more resources from the prisoner population. In addition, the objectives states seek to attain through war, in particular territorial annexation, makes combatant abuse an extremely attractive strategy for reducing future opposition in newly acquired lands. Fifth, I then discuss more briefly a frequently cited alternative explanation, cultural differences, which provides a different approach for understanding patterns of combatant abuse. Lastly, I summarize the main arguments put forward and briefly discuss how the hypotheses will be evaluated in the following chapters.

Defining Combatant Abuse

For the purposes of this study, I define combatant abuse as a military strategy enacted by political and military authorities that involves the intentional killing or harming, either directly or indirectly, of enemy combatants who have laid down their arms and surrendered. The definition contains several elements that merit further elaboration, which are summarized in Table 1 below.

Table 1: Summary of the concept of combatant abuse

4 Components of combatant abuse
1) "Combatants"
▪ "consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct of its subordinates" (Additional Protocol I, Article 43).
▪ broad concept of armed forces: uniformed military, guerrillas, etc.
▪ excludes munitions workers.
2) State-sanctioned policy
▪ excludes isolated acts by individual or small groups of soldiers.
3) Wide range of violations beyond execution possible
▪ based on "Grave Breaches" logic of Geneva Conventions (1949 III, Article 13)
▪ main criteria: extreme physical and/or mental hardship.
4) Intentionality, including cases where negative harm to prisoners is foreseeable.

First, both international legal scholars and just war theorists have spent a good deal of time and effort trying to precisely define the boundary separating combatants from noncombatants, or in other words civilians (Rogers 2007:103-108). Going back to the first conventions of the 19th century and even earlier to many of the legal scholars from the Enlightenment, one of the core elements of the laws of war has been to create a distinction between civilians and combatants (Best 1980:63-66). In practice, however, the line has not always been clear and some even argue any meaningful distinction is no longer tenable given the inherent links between the entire national economy and a country's war making capability in the modern era, as well as the implicit consent of the public for the government's decision to enter into armed

conflict (Dunlap 2000:10).⁹ Yet such a view masks substantial differences in the degree to which combatants and noncombatants participate and actively contribute toward the military activities of the state.

For a baseline definition, I follow the 1977 Additional Protocol I to the Geneva Conventions and consider combatants to “consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct of its subordinates” (Article 43).¹⁰ I interpret “armed forces” broadly to refer not only to individuals serving in the official uniformed military, but also to members of irregular forces, such as guerrilla insurgents. In either case civilians are distinguished from combatants in that they do not pose a direct threat of harm to enemy personnel or property. Civilians may give moral support to combatants through nonviolent demonstrations, or provide food and other nonlethal supplies, but these activities do not pose a direct physical threat to the adversary and thus do not make these civilians equivalent to combatants (Valentino 2004:13-14).

One additional group that does not directly belong to the armed forces, but is sometimes still included under the combatant category, concerns munitions workers (Walzer 2000:145-146). I acknowledge this reasoning that individuals making the tools necessary for soldiers to fight should be considered differently from those making what soldiers need to live, but I exclude munitions workers from the scope of this study. Those who include munitions workers do so mainly to argue they are legitimate targets, unlike other civilians, during military operations such as aerial bombing campaigns (Downes 2008:14-15). However, my concern is not so much with the general targeting of combatants during the heat of battle, but rather with the

⁹ Best also points repeatedly to the gap between the legal distinction between soldiers and civilians on the one hand, and the actual thinking and conduct of many states during war (Best 1980:96-99, 200-201).

¹⁰ The full text of the Protocol is available at <http://www.icrc.org/ihl.nsf/FULL/470?OpenDocument>.

treatment of combatants once they have laid down their arms and are considered *hors de combat*. If it can be said that munitions workers have “laid down” their tools, then historically they are more often than not treated in a similar manner to other civilians by occupying forces, though perhaps as a group with a particularly useful set of skills to be exploited (Vance 2006:232). The status of surrendering armed forces is usually very different and almost always involves some form of captivity. Civilians are also sometimes detained for a variety of reasons, but the more narrow definition of combatants used here, which focuses only on those who are part of the armed forces while counting civilians as everyone else, more closely follows current thinking in international law.¹¹

A final remark concerns the relationship between my definition of combatant and the legal concept of prisoner of war (POW). In order to be formally considered POWs, combatants must fulfill certain criteria, such as being commanded by a leader responsible for his or her subordinates, wearing a fixed and recognizable emblem, carrying their arms openly, and acting in accordance with the laws of war.¹² Some combatants, especially guerilla fighters, might not be granted POW status because they fail to meet certain of these criteria, though even in this case the 1977 Additional Protocol I loosened these restrictions somewhat.¹³ On the other hand, international humanitarian law mandates that several types of persons accompanying the armed forces but who are not actual members, such as war correspondents, should also be given POW status. Thus not all combatants might be considered POWs, while at the same time most but not all POWs are combatants. Since this study is concerned with

¹¹ See, for instance, Article 50 of Additional Protocol I, which defines civilians in a negative fashion as any individual that is *not* a member of the armed forces.

¹² See the 1949 Third Geneva Convention relative to the Treatment of Prisoners of War, Art.4 and the accompanying commentaries for further details. Available at <http://icrc.org/ihl.nsf/FULL/375?OpenDocument>.

¹³ See Additional Protocol I, Article 44.

the treatment of all captured combatants, irrespective of their official status once detained, I use the terms “combatants” or “prisoners” in the broader sense and reserve “POW” to refer to the narrower legal term where relevant.

Second, combatant abuse refers to government policy and practices rather than isolated acts by individual soldiers or small troop units. During war it is not uncommon for some soldiers to take matters into their own hands and release their frustrations on captured personnel. Given the stress and rigors of the battlefield, individual-level abuses are perhaps not all that surprising (Bourke 1999:170). In a study of several different areas of the laws of war, Morrow found that violations were more frequent in areas, such as the treatment of prisoners and civilians, where frontline soldiers had greater scope and opportunity to commit atrocities. In areas under more centralized control, such as the use of chemical and biological weapons or aerial bombing, compliance was consistently higher (Morrow 2007:569).

Although I acknowledge the role of atrocities committed at the individual or small group levels for understanding the character and conduct of armed conflict, these types of violations are qualitatively different from state-directed policies. The historian Max Hastings remarked that to fully understand the nature and motivations of the behavior of U.S. and Communist forces during the Korean War, “It remains important and valid to make some distinction between the random acts of individual UN troops and the systematic brutality of the North Koreans” (1987:287). Furthermore, the best and worst historical cases of the treatment of prisoners involved government authorities playing a leading hand in directing their forces to refrain from or commit combatant abuse. It also cannot be assumed that the causes of combatant abuse instigated by small groups of troops on the ground will necessarily be the same as for abuses directed by the civilian and military leadership. Only forms of abuse flowing directly from government policy are, therefore, considered cases of combatant

abuse for the purposes of this study. Individual violations may be included, but only insofar as higher military or political authorities condone such actions and make little or no attempt to stop their reoccurrence. As Downes notes in the related area of civilian victimization, violations are not necessarily always initiated by government leaders. They may instead begin with the military on the battle front, but once they are explicitly sanctioned or implicitly supported by higher authorities, these practices become “de facto” government policy (Downes 2008:15).

Third, combatant abuse comprises a variety of actions beyond the immediate execution of prisoners. Over the course of the twentieth century, international treaties have provided a growing number of rights for prisoners ranging from protections against torture or execution to more minor provisions, such as providing postage services, recreational facilities, and respecting personal belongings. I focus on those abuses bearing most directly on the physical and mental well-being of prisoners, since these acts are more likely to affect their overall quality of life once they lay down their arms. The latter group of more minor violations is excluded from the definition of combatant abuse. Instead, the range of relevant abuses closely follows the concept of “grave breaches” as defined in Article 130 of the 1949 Third Geneva Convention. These include execution, torture, inhumane living or working conditions, forcefully conscripting prisoners into the captor’s armed forces, and denying proper judicial rights.

Examples of each form of abuse across a variety of time periods and types of war are provided in Table 2 below for illustrative purposes. Relying on the 1949 Geneva Conventions might appear to pose a problem of applying one particular set of principles to earlier periods that may have been guided by different expectations. This would, in turn, unduly bias against the perceived behavior of states in earlier conflicts. However, elements of each of these grave forms of abuse are found in earlier treaties,

as well as customary norms going back at least to the nineteenth century.¹⁴ Rules and expectations proscribing the most serious abuses against the body and mind of prisoners do not represent a recent development in international humanitarian law, but have existed in one form or another for well over a century.

Table 2: Varieties of combatant abuse with historical examples¹⁵

Type of Abuse	Violator	War	Date	Policy/Event
Execution	England	Hundred Year's War	1415	Killing of French prisoners at Battle of Agincourt by the order of
Torture	France	Algerian War	1954-1962	Harsh interrogation of Algerian fighters.
Living/working conditions	Roman Empire	Various	Early centuries B.C./A.D.	Use of prisoners as hard labor in salt mines.
Military conscription	Germany	World War II	1941-1945	Soviet "Hitler Youth" pressed into the German armed
Denying judicial rights	United States	War on Terror	2001-present	Indefinite detention without trial of Al Qaeda and other terrorist

Fourth, combatant abuse refers to practices that intentionally kill or harm prisoners. Abuses like execution or torture are fairly clear-cut in this regard, but others such as nutritional standards and living conditions may at times seem more ambiguous. Failing to provide adequate food, shelter, or medical care might not appear to be as reprehensible as the active decision to shoot captives. Denying these necessities can in fact cause similar suffering and often leads to the same result of the

¹⁴ This is evident in previous treaties, such as the 1929 Geneva Convention and the earlier 1899 and 1907 Hague Conventions. The commentaries to the 1949 Geneva Conventions provide further support for this view, see <http://www.icrc.org/ihl.nsf/COM/375-590156?OpenDocument>. The customary basis for many of these principles is also evident in the 1863 Lieber Code, the 1874 Brussels Declaration, and the 1880 Oxford Manual of the Laws and Customs of War, all available at <http://www.icrc.org/ihl.nsf/INTRO?OpenView>.

¹⁵ Sources: (Keegan 1976:85-112; Bartov 1991:44-45; Andreopoulos 1994:205-206; Vance 2006:339, 439-442).

deaths of huge numbers of prisoners (Weindling 2000:76-77, 357). For instance, at the notorious Totskoye camp in Czarist Russia more than 53 percent of Austro-Hungarian prisoners died during the winter of 1915-1916 from a typhus epidemic resulting from poor and neglectful sanitation and medical facilities (Rachamimov 2002:95). In a similar manner, it is estimated that far more Russian soldiers died from German policies of purposeful starvation at many prisoner camps on the Eastern Front during the Second World War rather than from outright execution (Streit 1986:9-10).

The proper treatment of combatants involves both negative and positive requirements. Captors are supposed to refrain from certain practices like torture, but they are also expected to actively provide other services, such as adequate shelter and medical care. General living conditions can of course vary a great deal due to the local climate as well as the economic situation of the captor state, especially during wartime. Nevertheless, there is a general expectation that captor states will put forth a good faith effort to care for their prisoners across all of the key dimensions listed above. In sum, combatant abuse includes not only cases of intentionally harming captured combatants, but also those instances where the consequences of the captor state's action, or inaction, would cause foreseeable and avoidable harm to prisoners.

Assessing the Costs and Benefits of Combatant Abuse

What might states have to gain from abusing prisoners? Conversely, what might be the advantages of treating prisoners well? Before considering the causes of combatant abuse, it is instructive to briefly examine some of the possible costs and benefits to captor states from different choices along the continuum from diligent care, in the case of U.S. treatment of Iraqi soldiers during the 1991 Persian Gulf War, to the

outright brutality wrought by Japanese forces in Southeast Asia and the Pacific during World War II (see Figure 1 below).¹⁶

U.S. in Persian Gulf War	U.K. in WWI (Western Front)	Japan in World War II (Pacific Theater)
Low	Medium	High

Figure 1: Continuum of brutality in combatant abuse

On the benefits side, combatant abuse may represent a potentially effective coercive tool for manipulating the resolve and capabilities of the enemy. The leaders and citizenry of the adversary must take into account not only the deaths to combatants and civilians directly inflicted through fighting, but also the deaths of combatants off of the battlefield. Images of beaten and mutilated corpses of U.S. troops being dragged through the streets of Mogadishu are widely viewed as playing a pivotal role in the reduction of the U.S. military presence in Somalia in 1993 and their eventual full withdrawal (Mueller 1996:30-31).¹⁷ In the terminology of the coercion literature, combatant abuse is an example of a punishment strategy which targets the will of the enemy to continue fighting by raising the societal costs of the war beyond what the adversary can bear. Studies of punishment strategies tend to focus on civilian targeting, but the same logic applies to the treatment of combatants.¹⁸

Combatant abuse can also conform to the logic of a denial strategy. Denial does not seek to target the enemy's will to resist, but rather weaken the enemy's military ability to achieve its objectives (Pape 1996:19). The effects of combatant

¹⁶ For a similar discussion, but more from the point of view of individual soldiers, see Ferguson (1999:371-373).

¹⁷ Though for a more skeptical account, see (Larson 1996:49; Burk 1999:77).

¹⁸ In one of the most widely read studies of coercion, Robert Pape notes that "Punishment is not limited to hitting civilians in population centers. It may take the form of killing military personnel in large numbers to exploit the casualty sensitivities of opponents" (Pape 1996:13). What is not explicit in Pape's remarks is that the killing of combatants for punishment purposes can happen on or off the battlefield.

abuse on military capacity can take several forms. The capture of enemy troops already reduces the power of the adversary since these soldiers are removed from combat for the purposes of the current war. Whether prisoners are treated well or mistreated does not change this immediate effect on the manpower of the adversary. The decision to abuse those prisoners is likely to have several other side effects on the enemy's power calculations. States are obviously most concerned with the current war, but they also need to remain wary of possible conflicts with third-party states (Blainey 1988:65-66; Reiter 2003:31). Normally, prisoners are repatriated at the end of the conflict and can contribute once again to the fighting force of their home state. If prisoners are instead killed, then the future military capacity of a state can be substantially weakened.¹⁹ Combatant abuse can also have a more direct impact on the current war. Demonstrating to the enemy's soldiers and citizens their potential fate might undermine the fighting capacity of the adversary by leading more soldiers to desert, or more citizens to resist conscription into the armed forces. The desired audience of combatant abuse is therefore not only the adversary's leadership but also its citizens.

Beyond their use for coercing the adversary's leadership and population, captured soldiers represent a potentially valuable source of information regarding the adversary's armed forces. The use of torture and coercive interrogation techniques in general can be an attractive option for captors desperate for information regarding the plans and motives of their adversaries (Bellamy 2006:123; Slater 2006:193). The perceived value of torture is even evident in contemporary popular culture. Kiefer

¹⁹ Of course, there is no guarantee that prisoners will be returned in a timely manner if at all. States often recognize the strategic value of prisoners, which might help explain why negotiations over their repatriation are often long and arduous. For instance, one of the reasons Western Powers were reluctant to repatriate Russian soldiers still held by Germany at the end of World War I was the fear they would simply strengthen the Bolshevik side in the ongoing Russian civil war (Bugnion 2003:101-102).

Sutherland's character "Jack Bauer" on the hit show *24* has brought into the mainstream the depiction of torture as not only an effective but also a normal practice for dealing with dangerous prisoners (Green 2005:34). The few empirical studies of torture indicate, in contrast, that coercive procedures are relatively ineffective in securing either reliable or useful intelligence from suspects (Biderman 1960:140-141; Bowden 2003:57).²⁰ In interviews many retired interrogators remarked that they found a combination of coaxing and deception to be more useful than outright violence (Lelyveld 2005:40).

Even if torture has largely been found to be an ineffective tactic for extracting information from captives, the perception among military and civilian leaders of its utility remains prevalent (Arrigo 2004:564). Active coercion is not the only way captors can gain intelligence, since holding out the promise of better food and living conditions can also be useful. China used a combination of carrots in the form of extra rations and comforts, and sticks through a systematic policy of harsh interrogation to obtain information from U.S. prisoners during the Korean War (Garrett 1981:217-218). The common Chinese aim to extract confessions from downed pilots admitting they had engaged in bacteriological warfare also demonstrates the possible propaganda value to be gained from torturing prisoners irrespective of the information's veracity (Hastings 1987:301). What ultimately matters from the point of view of assessing the relative costs and benefits of torture is the continued perceived utility of this practice among many high-level decision makers.

²⁰ The scarcity of publically available studies on the effectiveness of torture is not entirely surprising, since governments are likely reluctant to publically admit to torturing subjects. Furthermore, academic studies are equally unlikely, since "Federal guidelines governing the treatment of human subjects almost certainly would prevent the gathering of empirical research comparing whether torture was more effective than less brutal means of gathering information" (Bell 2008:356).

Along with their value as human intelligence, prisoners also present a ready pool of physical labor that can augment the war making capabilities of the captor state. In a historical study of the economic impact of prisoners of war, Gerald Davis remarks that “As a worker who may legitimately play a positive role in the enemy's economy, his [i.e. the prisoner's] greatest historical impact may indeed be to benefit the enemy” (Davis 1977:623).²¹ Various international humanitarian law conventions actually allow captor states to employ prisoners, but the types of work, conditions, and remuneration are strictly regulated. Even some of the harshest captors have eventually come to recognize that a minimum level of nutrition and work safety is necessary for prison laborers to be productive over the long run.

Nevertheless, during times of crisis, of which war is one of the most obvious examples, it can often become expedient to exploit prisoners ruthlessly as a slave workforce. Japanese captors drove their prisoners relentlessly in the building of strategically important bridges and railways to cement control over newly conquered territories in Southeast Asia during World War II (Vance 2006:56-57). During the First World War, Russia pressed thousands of prisoners into a crash program to construct the Murman railway to circumvent the blockade imposed by the Central Powers on its Baltic and Black Sea harbors and maintain access to Allied shipments of necessary goods for the war effort (Vance 2006:112). Of around 70,000 prisoners employed on the railway, 25,000 were estimated to have died while 32,000 others suffered a variety of debilitating health ailments (Rachamimov 2002:111-112). Importantly from the Russian point of view, of course, the line was completed by

²¹ Though Davis is careful to point out that prisoners can become a net burden on captor economies because of the resources required for their proper care. This issue, among other costs, will be dealt with in further detail below.

December 1916, though this would not save it from military collapse and eventual revolution.

Along with the gains from goods produced, the use of prisoners has the added advantage of freeing more of the domestic labor force to join the military (Lewis and Mewha 1955:199-200; Davis 1977:626). Belligerents can reallocate domestic labor to the war front, while substituting prisoner labor to make up for any shortfalls in production. Prisoners can also provide an even more direct contribution to military capacity through forcible conscription into the captor state's armed forces. Germany enlisted approximately 300,000 Soviet prisoners, commonly known as *Hiwis*, against their will in order to bolster its forces for the continued campaign on the Eastern Front during World War II (Bartov 1991:44-45).²² In both direct and more indirect ways, the ruthless exploitation of prisoner labor can improve the fighting capacity of captor states on the battlefield.

A more psychologically-based logic tying combatant abuse to increased military capacity centers on the belief that perpetrating atrocities against the enemy can be a good way to build up the morale and courage of troops on the ground (Walzer 2000:134).²³ Of course, this needs to be balanced against likely psychological damage to individual perpetrators themselves, as well as a possible decline in military effectiveness due to the unraveling of discipline resulting from committing atrocities in the first place (Bartov 1991:82, 86-89; 2001:115).

Even if a captor would in theory prefer to treat its prisoners well, properly caring for captives is no small logistical undertaking and can require the deployment

²² Other estimates of the total number of Soviet prisoners forcibly enlisted range from a minimum of 250,000, which still represents a substantial number, to upwards of one million (Vance 2006:460).

²³ Walzer discusses this reasoning in the context of rape during World War II, and alludes to similar thinking by the legal scholar Vitoria with respect to plunder. However, the logic also appears to be consistent with combatant abuse.

of a significant amount of resources. Food, shelter, medical facilities, and the necessity of large numbers of guards mean not as many resources can be allocated to the war front, or the civilian home front for that matter. For the 1916-1917 fiscal year during World War I, Austria-Hungary devoted more of its war expenditures to taking care of its 1.8 million mainly Russia prisoners than it did on explosives (Davis 1977:629)! Given the importance of artillery during the war, especially for its ongoing campaign against Italy at the time, the relative cost of dealing with prisoners was substantial. In light of these concerns, it is not surprising that some captors may choose to mistreat prisoners, through seemingly “benign” practices, such as neglecting to provide adequate living conditions, in order to devote scarce resources to the military campaign or assuage disgruntled domestic publics in the face of shortages at home.

Balanced against these benefits from combatant abuse are two primary costs. First, reciprocity always looms large when thinking about the side effects, unintended or otherwise, resulting from the conduct of states during war. Abusing prisoners almost certainly increases the likelihood the adversary will retaliate and abuse the original captor state’s soldiers in kind (Streit 1986:9). This may be motivated out of a desire for revenge, but also as a means to pressure the other side into ceasing its abusive behavior. In the broader historical context of war, however, retaliation can just as often lead to an escalating series of reprisals that in the end leaves the prisoners of both sides worse off.²⁴ The tendency for behavior during the First World war to degenerate toward the lowest common denominator led one ICRC official to express

²⁴ The feelings of many Scottish troops during World War I perhaps best sum up this view, “Fritz [a derogatory reference to German soldiers], they insisted, did not take any [prisoners], so why should we?” (quoted in Ferguson 1999:378). On the other hand, good behavior can create a self-reinforcing dynamic that can engender a relatively stable level of cooperation. Though not dealing specifically with prisoner treatment, a related example is the so-called “live and let live” system that developed on certain parts of the Western Front during the First World War (Ashworth 1980:46; Axelrod 1984:73-74).

in exasperation, “Reciprocity, that implacable and unbending deity, [is] the only one to which, during this war, universal and vile homage has been paid” (Durand 1984:70). States must remain mindful of the response their actions are likely to engender. The degree to which a government is concerned with reciprocity will in large be part a function of how much they value the well-being of their own soldiers, which can vary a great deal. Although the dangers of reciprocity may always be present in the relations between warring parties during war, the relative sensitivity of states to the costs of reciprocity are not always equal. As will be discussed further below, the relative casualty sensitivity of belligerents, and hence their concerns over reciprocal abuses, is influenced a great deal by their regime type.

Second, along with the human costs to one’s own soldiers from reciprocity, abusing prisoners may also become militarily counterproductive. Knowing the gruesome fate awaiting them should they fall into the hands of an abusive captor, enemy soldiers may prefer to take their chances on the battlefield and fight on rather than surrender (Forster 1986:21; Rees 1999:67). Abusing prisoners, whatever the immediate advantages, may create a sterner foe and make the war more difficult and bloody in the long run. Properly treating the enemy’s combatants could actually be considered advantageous by making the remaining soldiers more likely to surrender and remove themselves from the frontlines (Ferguson 2004:149-152).

This may help to account in part for the level of resources and attention devoted by some armies for publicizing to enemy soldiers that they will be well-treated should they give themselves up (Shils and Janowitz 1948:312-313; Lerner 1981:43). Taking steps toward increasing the surrender propensity of the enemy ultimately makes good sense strategically, since surrenders drain the adversary of both the physical manpower and morale necessary for effectively waging war (Clausewitz 1984:231-232).

Good treatment also has potential benefits from the point of view of the captor state's own soldiers. During part of the brutal war from 1979-1989 in Afghanistan, the Soviet Union recognized a military advantage stemming from an ICRC plan to transfer prisoners from both sides to a safe haven in a neutral third-party country. "[I]t is possible that the Soviet authorities accepted the ICRC proposal because it would enhance the morale of their troops in Afghanistan if they knew that capture by the mujaheddin need not mean a long period of deprivation or summary execution" (Carr-Gregg 1989:103). Soviet motives in this instance also bring to the fore the other main benefit to one's own soldiers from properly caring for enemy combatants. Reciprocity runs both ways and just as abuses can devolve into a downward spiral of more and more atrocious acts, positive treatment can cultivate a virtuous cycle of increasingly cooperative behavior between opponents. The latter more benevolent dynamic is expressed in the belief among officials responsible for administering the U.S. prisoner of war system in Europe during World War II that fair and proper care of German prisoners was the best way to ensure the good treatment of U.S. prisoners in German hands (Tollefson 1946:76-77). In a similar manner to reciprocity, certain attributes of the warring parties themselves or the conflict may make states value to a greater or lesser extent the possible benefits to be gained through humanely treating prisoners.

Strategic interaction with the adversary's armed forces on the battlefield would seem to provide compelling reasons for states to avoid harming prisoners. However, abusing enemy combatants, along with the expectations and consequent behavior of the captor state's own soldiers, may paradoxically present some further benefits for the perpetrator. Knowing the adversary is likely to retaliate against any previous abuses, soldiers from the captor state may be similarly emboldened to continue fighting rather than surrender (Beever 1998:126). It has even been argued that part of Hitler's reasoning for mistreating Soviet prisoners was to ensure the Soviets would respond in

kind, and thereby increase the likelihood that German troops would continue to fight on rather than surrender (MacKenzie 1994:508-509). The resulting equilibrium involved a much more brutal battlefield, but one with the benefit where the captor state's own soldiers remained motivated to fight on rather than risk almost certain pain and death as captives. The flipside of the earlier benevolent logic is that combatant abuse can remain an indirect yet potentially useful instrument, along with more traditional tools like repression, to encourage one's own forces to continue fighting on the battlefield (Ferguson 2004:171-188).

Table 3: Summary of the potential costs and benefits of combatant abuse

Benefits

- instrument of coercion (punishment and/or denial strategy).
- extract intelligence.
- exploit as slave labor force.
- violence against enemy to build morale and courage of own forces.
- free up resources for fighting or homefront that would otherwise be devoted to prisoner care.

Costs

- psychological costs to individual perpetrators.
 - decline in discipline.
 - reciprocity: increased likelihood enemy will retaliate in kind against prisoners it holds.
 - increase tenacity of enemy soldiers to continue fighting rather than surrender (though obverse may increase resolve of own soldiers to fight on out of fear over their own fate if they surrender).
-

In sum, there are several costs and benefits when deciding how to treat combatants from the opposing side. These advantages and disadvantages are summarized in Table 3 above. Not all of these factors are likely to be salient for all states, and some may be more consequential in certain cases or time periods than others. For instance, the rise of nationalism would suggest that the loyalties of soldiers to their home state have become even more enduring and would make successfully

coercing them into joining a captor state's own military ranks even more difficult and dangerous than before.

In spite of potential sources of variation in the costs and benefits of combatant abuse over time, the historical record suggests no dominant strategy appears to exist for the treatment of combatants. In some cases states seem to emphasize the benefits to be gained from combatant abuse, while in other instances they tend to focus on the costs and consequently refrain from committing violations. The accounting above suggests a fundamental tension between the costs and benefits of combatant abuse, since acting either virtuously or brutally comes with its own risks and rewards that may lead states in one direction or the other along a continuum of prisoner brutality. The following sections seek to build on this general discussion by offering a theoretical framework based on two key sets of factors – the nature of the belligerents and bloodshed during war. These factors are likely to influence how states assess the relative advantages and disadvantages of combatant abuse, which has implications for the eventual policy they adopt both on the battlefield in capturing enemy combatants as well as how they will treat these prisoners once they enter into captivity.

The Nature of the Belligerents: Democracy and the (mis)Treatment of Combatants

Debates over the effect of regime type on armed conflict have focused overwhelmingly on the propensity of states to enter into militarized disputes up to and including war.²⁵ The well-known democratic peace finding – that democracies are peaceful with each other, but just as conflict-prone as nondemocracies in general – remains a dyadic phenomenon. Given that democracies rarely, if ever, go to war each

²⁵ The democratic peace literature is vast, but several works synthesizing the main arguments include (Maoz 1997; Ray 1998).

other,²⁶ deriving implications from the democratic peace literature for the actual conduct of states during war often focuses instead on possible monadic effects. In other words, do democracies somehow act differently than nondemocracies irrespective of the regime type of their opponent?²⁷

Existing research on the conduct of war largely follows the democratic peace tradition by distinguishing between normative and institutional explanations (Russett 1993:30-42). While the normative and institutional approaches are sometimes viewed as complementary, recent scholars in the civilian victimization literature argue the two variants offer diverging predictions for the conduct of democracies during war (Valentino et al. 2006:345-346; Downes 2008:21).

Normative Accounts

Most of the scholars who argue that democracies fight their wars more humanely focus on the treatment of civilians. They generally emphasize particular liberal norms inculcated in the political culture of democratic regimes (Rummel 1995:4; Merom 2003:15).²⁸ In a comparative analysis of counterinsurgency strategies, Engelhardt argues democracies possess liberal norms propounding the virtues of nonviolence, which leads them to be unwilling to “play rough” (Engelhardt 1992:53). Examining the targeting of civilians by states during interstate, civil, and colonial wars, Valentino et al. argue, “If democratic values promote tolerance, nonviolence,

²⁶ For a discussion of several alleged wars between democracies, see (Russett 1993:16-20).

²⁷ In the more established literature on the relative war-proneness of democracies, there is a growing though more controversial body of research arguing that democracies are in fact more pacific overall general (Schweller 1992:248-249; Rousseau et al. 1996:514; Lipson 2003:21).

²⁸ Rummel also offers an institutional explanation for the greater humaneness of democracies based on the number and scope of checks and balances that restrain democratic governments. However, he offers the qualification that institutional checks are reinforced by “the development of a democratic culture and norms that emphasizes rational debate, toleration, negotiation of differences, conciliation, and conflict resolution” (Rummel 1995:4-5). He hypothesizes these forces should be present but less restraining in foreign wars compared to domestic situations, but his results nevertheless find that democracies perform more humanely across all of these contexts (Rummel 1995:6, 25).

and respect for legal constraints, then democracies should wage their wars more humanely than other forms of government” (Valentino et al. 2004:382). Such norms are embedded not only in the civilian leaders and their publics, but are also thought to diffuse into the military’s thinking and practice, and provide a frontline defense against potential abuses on the battlefield (Gabriel 1984:8-9; Sarkesian 1989:44).²⁹ Along with the conduct of states during war, normative arguments gain further empirical support by studies finding democracies are less likely to commit human rights abuses against their own citizens up to and including more extreme forms of violence, such as genocide (Poe et al. 1999; Harff 2003; Davenport and Armstrong 2004).

Norms-based arguments have overwhelmingly focused on the treatment of civilians, but the same logic is consistent with the proper care for combatants. If principles of tolerance, nonviolence, and respect for individual rights provide protections for enemy civilians, then the same should be true for combatants. The normative argument with respect to the conduct of war centers on a broader process whereby states tend to translate their internal beliefs and practices externally when conducting foreign affairs (Dixon 1994:16-18). In democracies, domestic political culture centers on the fundamental equality of rights among individual citizens, which they are then prone to apply with equal vigor in their external relations (Weart 1998:76-77, 90-92).³⁰ More specifically with regards to the behavior of states during war, Doyle draws on Kant’s articles of perpetual peace to argue the tendency for

²⁹ Though other scholars note that some militaries have insulated themselves from their surrounding domestic society, and are thus less influenced by broader societal norms (Rosen 1995:6).

³⁰ Weart argues that equal rights are not sufficient in themselves to define democratic political culture, which also requires in addition a tolerance of dissent over political differences. However, he acknowledges that in many ways toleration flows directly from equality: “The ideal of toleration is a corollary to equality, for if you truly regard me as your equal you will not try to prevent me from speaking my mind, nor force me to obey your arbitrary command” (Weart 1998:59-60).

democracies to externalize their domestic norms of respect for individual rights necessitates that they comply with all aspects of the laws of war, which includes respect for the enemy's combatants (Doyle 1983:344). Locke follows a similar logic in his *Second Treatise of Government* and asserts that liberal principles of respect for individual rights mandate states to treat not only the adversary's civilians justly, but also their soldiers (Locke 1980:93). This leads to the following hypothesis on the conduct of democracies during war, which is based on their distinct political culture of fostering a respect for individual rights and adherence to norms of tolerance and nonviolence:

Hypothesis 1a (Democratic norms): Democracies are less likely to abuse captured combatants than nondemocracies.

The normative approach appears to offer a compelling explanation for the conduct of democracies during war, but several concerns should be kept in mind. Returning to the dyadic version of the argument, democracies are only expected to externalize their norms of nonviolence with other democracies. When dealing with other regime types, a democratic state "may feel obliged to adapt to the harsher norms or international conduct of the latter, lest it be exploited or eliminated by the nondemocratic state that takes advantage of the inherent moderation of democracies" (Russett 1993:33). Since democracies only tend to fight nondemocracies, then by this reasoning they might be expected to act in a similar manner to their more brutal counterparts. However, this logic appears to hold more for the treatment of the adversary's leadership rather than for ordinary soldiers.³¹ Russett is careful to distinguish between democracies' perceptions of foreign leaders in contrast to their

³¹ Although arguing more from a structural than norms perspective, Bueno de Mesquita and Siverson posit that democracies are more likely to oust autocratic leaders following victory in war, though they remain largely silent on the subsequent treatment of the autocracy's population (Bueno de Mesquita and Siverson 1997:193).

peoples. For instance, he notes “The essence of America's Cold War ideology was that it had no quarrel with the Russian people, but only with the atheistic communist elites who repressed them” (Russett 1993:32). Applied to the conduct of war, democracies might be expected to extend domestic norms of individual rights to enemy combatants, since the captured soldiers are in little way directly responsible for the policies of their autocratic leaders. The implications derived from the dyadic version of the democratic peace thus appear to converge a great deal toward monadic approaches, at least with respect to the treatment of enemy combatants during war.

The monadic variant, which posits that democracies externalize their norms irrespective of the regime type of their adversary, is also not without problems. Critics point out that norms of nonviolence and respect for individual rights have not prevented democracies from waging wars of imperial conquest or engaging in covert actions to topple legitimately elected foreign governments (Forsythe 1992:393-394; Doyle 1997:292; Rosato 2003:588-589). In cases where democracies did not directly commit atrocities, they still frequently provided indirect support to the perpetrators, or stood by and allowed the violence to continue unchecked (McClintock 1992:139; Weart 1998:220-221). As Downes also notes, democratic publics do not always reflect the liberal norms attributed to them and can in fact be quite bellicose (Downes 2008:23). Belying their supposedly pacific nature, democratic publics in many cases were quite supportive of both aggressive territorial expansion, as well as the use of brutal methods against civilians and combatants alike during the course of such wars (Reiter and Stam 2002:151-158). Reflecting this more ambivalent view, several recent empirical studies have found that democracy exerts little or no restraining effect on the treatment of civilians in various contexts of war and peace (Krain 1997:346; Valentino

2004:26-27, 237; Valentino et al. 2006:368-369).³² If the skeptics are correct and democracy does not significantly reduce the risks to the lives of innocent and unarmed civilians, then democratic norms are likely to exert even less of a restraint on the treatment of combatants who are directly engaged in battle against the democratic belligerent's own soldiers.

Institutional Accounts

The second variant of democratic arguments centers on their institutional rather than normative characteristics. The logic focuses on the fact that democratic leaders tend to be held more accountable by their publics than leaders of other regime types. War remains one of the most salient measures of a government's performance and recent research suggests that the tenure of democratic leaders is more sensitive to the rising costs of war and the prospect of defeat than their nondemocratic counterparts (Bueno de Mesquita and Siverson 1995:852).³³ Although governments may benefit from a rally effect resulting from the initial use of force, a large body of research finds that public support declines precipitously as the duration and casualties from war grow (Mueller 1973:60-65; Gartner and Segura 1998). The greater electoral vulnerability of democratic governments has led to the contention that democracies are both more selective in the wars they initiate and more likely to fight harder once war has begun.³⁴ Fighting "hard" can, of course, refer to a wide range of behavior. For

³² Valentino acknowledges that democracy may on average reduce the likelihood of the mass killing of civilians, which he defines as at least 50,000 intentional deaths within a period of five years. However, he argues that democracy remains far from either a necessary or sufficient condition for preventing the resort to mass killing (Valentino 2004:28).

³³ In contrast to this office-holding approach, Goemans contends that the true cost of war is the probability the leadership will be punished in the form of death, imprisonment, or exile (2000:38-49). By this logic, he expects that mixed regimes will be more affected by the costs and likely outcome of war than either democracies or autocracies, since mixed regime leaders are the most likely to be subsequently punished. This argument will be evaluated in Chapter 4, which conducts a quantitative analysis of the causes of combatant abuse.

³⁴ These two components are commonly referred to as the selection and warfighting effects respectively (Reiter and Stam 2002:11).

instance, Bueno de Mesquita et al. find that democracies are willing to devote more resources to the war effort than their autocratic counterparts (Bueno de Mesquita et al. 2004:374).³⁵

By extension, some argue the demands upon democracies not only to win, but also to minimize their own casualties, might actually make them *more* likely to fight in nastier ways than their nondemocratic counterparts (Valentino et al. 2006:348).

Downes reasons that these institutional pressures largely account for his finding that democracies are often more prone to target foreign civilians during interstate wars, especially for conflicts that become particularly costly (Downes 2007:889; 2008:64).³⁶ This strategy may be part of an attempt to coerce the other side into giving up because of the greater human toll wrought by targeting noncombatants, or as a way to shift the risks and costs of war off of the democracy's own soldiers and onto the civilians of the opposing side. It follows that a similar logic may operate with even greater force in the case of enemy combatants, since they pose a more direct threat to the belligerent's own citizens and soldiers. Assuming the overall benefits of combatant abuse discussed earlier outweigh the costs, then the institutional pressures for democracies to win leads to the opposite expectation from the first hypothesis, which was concerned with democratic norms:

Hypothesis 1b (Democratic institutions – first variant): Democracies are more likely to abuse captured combatants than nondemocracies.

Based on the civilian literature, the normative and institutional perspectives appear to offer radically different expectations regarding the conduct of democracies

³⁵ Though for a contrasting view, see (Reiter and Stam 2002:135-136).

³⁶ Though Downes also notes that if democracies tend to select relatively easier wars they are more likely to win, then democracies might also be less likely to target civilians, at least in wars they initiate (Downes 2008:22).

during war.³⁷ Looking more closely at the treatment of combatants reveals that the institutional approach may not actually be at odds, but is in many ways complementary to normative arguments. Although democracies may be expected to “fight harder” to win the wars they fight, domestic institutional forces also require that they win quickly and cheaply in terms of casualties (Siverson 1995:481; Reiter and Stam 2002:164-165). This suggests that two complementary sets of factors may make democracies less likely to resort to combatant abuse. These are fears of reciprocity and the strategic benefits of good conduct. The logic of reciprocity can be tied to the role of regime type by pointing to the relative sensitivity of regimes with particular institutional configurations to retaliatory abuses. In a similar manner, certain regimes may also be more attracted to the benefits accrued through humanely treating enemy soldiers and thus be more likely to act in this way.

First, if democracies are indeed more sensitive to the fate of their soldiers, then the looming prospect of reciprocity could lead them to be less, rather than more, likely to mistreat enemy prisoners. Even if abusing enemy combatants, or civilians for that matter, holds out the promise of substantial gains, democracies may be more susceptible to the resulting costs than autocracies and back away from relying on this strategy.

Abusing the adversary’s combatants more often than not results in retaliation in kind. Pressured by the public’s demand to ensure the proper treatment of their soldiers under German captivity, the British government devoted sizable resources during World War I to sending aid packages and arranging visits by international

³⁷ Another institutional variant focuses on the existence of audience costs in democracies, which suggests that threats made by democracies are more credible because leaders would suffer greater public sanctions if they subsequently backed down (Fearon 1994:582; Schultz 1998:830). Some scholars have extended this reasoning to argue that the behavior of democracies during war will be contingent on whether or not they have publically committed to an international treaty prohibiting the use of certain weapons or tactics (Morrow 2007:569-570).

monitors to prisoner camps in Germany (McCarthy 1918:3). In a similar manner, contrary to the perception of his generally hardnosed personality, Churchill intervened on many occasions throughout World War II to safeguard the treatment of German and Italian prisoners under Allied control out of fear the Axis powers would retaliate for any abuses against British prisoners in their hands (Moore 2000:183).³⁸

In a related study, Levi argues that democracies are generally constrained to adopt fairer military service policies, such as abolishing exemptions for elites, out of the need to obtain the contingent consent of their citizens. This consent in turn ensures citizens will provide the taxes and recruits necessary for an effective armed forces (Levi 1997:33-35, 205-208). Levi largely focuses on the domestic arena, but her insights have implications for the conduct of democracies toward combatants from other states.³⁹ Government policy provides an important type of signal to citizens regarding its overall trustworthiness to act in their general interests (Levi 1997:21). If a democracy engages in the abuse of enemy prisoners, then this in itself might signal to citizens that their government is not trustworthy, which could subsequently reduce the capacity of governing authorities to formulate and implement other policies. Abusive behavior is also likely to have a more immediate effect. Aware of the consequent probability that the enemy will seek revenge should they be captured, soldiers are more likely to believe their government does not have their best interests at heart and respond accordingly through desertion or other measures. Although not directly involving prisoner issues, an indication of this general logic was evident with the large-scale mutinies within the French army in 1917, which were largely credited

³⁸ This case is examined in greater detail in Chapter 5.

³⁹ Levi's framework for contingent consent also requires that individuals expect their fellow citizens will also comply by engaging in what she terms "ethical reciprocity" (Levi 1997:19, 24). Nevertheless, extending her model to the treatment of combatants appears to rest to a greater degree on the first criteria that citizens perceive their government to be fair and just.

to the rising death toll on the Western Front from seemingly pointless frontal assaults by hundreds of thousands of ordinary French soldiers on prepared German positions (Gilbert 1994:333-334).

Overall, the institutional incentives for democracies to win the wars they fight need to be counterbalanced by *how* their publics expect them to win. If combatant abuse is likely to result in abuse in kind against prisoners held by the adversary, then institutional incentives may in fact run in the same direction rather than counter to normative factors. Of course, nondemocracies are not oblivious to the potential loss of their own soldiers on the battlefield and in captivity. All states to a certain degree care about the fate of their troops, since this is likely to have domestic ramifications but also can affect their military capacity if large numbers of soldiers cannot be easily replaced. Nevertheless, the argument here is that domestic institutions of democracies make them relatively more sensitive than autocracies to the costs of reciprocity given the risks of public dissent and the greater accountability of democratic leaders to their publics.

Second, facing these greater constraints from reciprocity democracies should also be expected to emphasize to a much greater extent the strategic benefits to be gained from treating enemy combatants in a humane manner. As was noted in the previous section on the costs and benefits of combatant abuse, acting “justly” is not always contrary to military effectiveness. All else being equal, treating enemy combatants in a humane manner should increase the propensity of those soldiers still on the battlefield to surrender. By treating enemy prisoners humanely, democracies can mitigate the risks of retaliation against their own soldiers, and at the same time potentially reduce the fighting force of their opponent by inducing a greater number of surrenders.

Past cases indeed show that democracies often devote a significant amount of resources not only to proper prisoner care, but also to publicizing their policies to the adversary's soldiers. During the 1990-1991 Gulf War, the United States dropped millions of leaflets on Iraqi forces in the field encouraging them to surrender with the promise they would be properly treated (Rowe 1993:197). U.S. policy expanded to educating their own soldiers regarding obligations with respect to prisoners under international law and the military advantages to be gained from complying with these rules. Through a widespread dissemination campaign, the Geneva Conventions became the "Book Choice of the Month" for U.S. forces during the war (Beaumont 1996:288).

Of course, democratic institutional restraints on combatant abuse may not always be enough to guarantee the proper treatment of enemy combatants. If the strategic benefits seem minimal, or if the incentives involving reciprocity break down because abuses by the adversary spiral out of control, then democracy by itself may be insufficient to prevent a belligerent from resort to combatant abuse. Nevertheless, on average both the fears of reciprocity and sensitivity to strategic advantages point to the third and final hypothesis connecting democracy to the conduct of war:

Hypothesis 1c (Democratic institutions – second variant): Democracies are less likely to abuse captured combatants than nondemocracies.

It should be noted that concerns over retaliation may be less present when targeting foreign civilians, which may help explain the divergence in expectations between Hypothesis 1c and the civilian literature regarding the impact of democratic institutions. Publics may be wary that a government willing to kill foreign civilians will one day turn on its own people, but this concern does not appear to be very strong. Past wars have shown that strategies of civilian victimization can actually be quite popular with the public, especially if they are seen as saving the lives of their own

soldiers (Downes 2008:23). Concerns over reciprocity should still exist, but recent research has shown that democracies often reduce the risks to their own civilians of becoming targets by finding ways to wage conflicts far away from their homeland (Valentino et al. 2008:21-22). All else being equal, democratic publics appear less likely to be the target of attack.⁴⁰ Soldiers, in contrast, are much more vulnerable, since by necessity they have to fight on the ground and come into contact with enemy troops, irrespective of the location of the battle front. Democracies may perhaps be able to reduce this risk by relying to a greater extent on air or naval forces, but recent conflicts have shown that substantial ground forces are usually required for effectively prosecuting wars.⁴¹

In sum, democracies are more likely to be sensitive to the reciprocal costs of combatant abuse by both their publics and the soldiers themselves, as well as the strategic benefits to be gained from good conduct. Along with the general role of norms of nonviolence and the protection of individual rights, democracies may also have institutional incentives for ensuring the proper care of combatants that fall into their hands. Some scholars have indeed argued that soldiers are more likely to surrender to a democratic adversary based on the belief they were more likely to be well-treated once in captivity (Reiter and Stam 2002:65-69). However, Reiter and Stam largely assume democratic captors act differently than other regime types based on a few historical examples rather than evaluating this claim in a more systematic

⁴⁰ Of course, others have argued that democracies are particularly vulnerable to being targets of terrorist attacks, though the robustness of this finding is disputed (Pape 2003:349-350; Wade and Reiter 2007:344). Although it would be interesting to assess the relative vulnerability of democracies to all forms of political violence, it is beyond the scope of this study's more limited initial focus on interstate wars.

⁴¹ The Kosovo War is often credited as a shining example of how air power can do it alone in winning wars (Stigler 2002:125). Yet even in this instance, skeptics have argued that ground forces played a crucial role in bringing about Serbia's surrender in the form of surrogate forces from the Kosovo Liberation Army (KLA), as well as the importance of the U.S.-led North Atlantic Treaty Organization's (NATO) threat to initiate a ground invasion (Thomas 2006:17).

manner.⁴² The purpose of subsequent chapters is to begin to subject the hypotheses involving regime type and the treatment of enemy combatants to more rigorous empirical testing.

The Nature of the Bloodshed: Aims and the Severity of Warfare

Regime type arguments place the emphasis on the domestic level and leave open the objectives a state brings to the war, or how the conflict progresses, as factors to be considered in their own right. The nature of the bloodshed manifested through the aims and severity of warfare are likely to influence how states weigh the costs and benefits of combatant abuse irrespective of their domestic characteristics.⁴³ Each will be examined in turn.

The Severity of Warfare

A number of reinforcing factors may make wars of higher severity more likely to result in combatant abuse. As the fighting becomes bogged down into a war of attrition, or as the conflict lengthens and the number of battle deaths rises, states may be more apt to resort to abusing prisoners falling into their hands. In particular, states in the midst of a particularly hard-fought war are likely to appreciate the coercive potential of combatant abuse, which was briefly discussed earlier in the section on the costs and benefits of this practice. Coercion involves manipulating the costs and benefits of the adversary in the aim of changing its behavior (Pape 1996:12-13).

⁴² In a separate manuscript the authors assess their particular claim that democracies are likely to generate more surrenders from their opponents and find some support for this view (Reiter and Stam 1997). However, in later work they acknowledge that this study on surrender propensity suffers from data problems and likely sources of statistical bias, which together caution against any conclusive findings (Reiter and Stam 2002:219-220 note.236).

⁴³ Along these lines, regime type may best be thought of as representing the intercept and the nature of conflict the slope of the relationship of both sets of factors to combatant abuse. I thank Christopher Way for this insight. Of course, regime type may also mediate the effects of the nature of the war, as well as broader issues such as reciprocity.

States may calculate that combatant abuse is an effective tool to impose further costs on a stubborn enemy and test its capability and resolve to continue fighting. Scholars examining a variety of conflicts have observed that wars rarely finish with one side utterly exhausted and completely defeated. Rather, wars are often terminated through some form of negotiated settlement despite the fact that both sides still have the capability to continue fighting (Wittman 1979:744-749; Blainey 1988:159-161; Goemans 2000:3-12). This insight is reflected in a growing body of work arguing that bargaining between states does not end with the outbreak of hostilities, but continues throughout the war.⁴⁴ Fighting in this context is viewed as a way of revealing information about the relative capabilities and resolve of each belligerent (Reiter 2003:30-31).⁴⁵ Of particular concern here, the conduct of states during war also demonstrates their ability to inflict and bear painful costs relative to their opponent (Slantchev 2003a:127-128). According to this logic, a state may pull out not because it no longer has the capability to fight, but rather because it is unwilling to absorb the costs from continuing the war. Abusing combatants presents a stark, yet potentially effective means, for inflicting sufficient pain on an adversary. Incentives to resort to such abuses are likely to be even higher in wars that devolve into protracted stalemates.

The value of combatant abuse as a punishment strategy always needs to be balanced against its potential costs. Past research has shown that punishment strategies in general are not terribly effective in leading the adversary to back down (Horowitz and Reiter 2001:160). Modern nation states have shown themselves to be resilient to

⁴⁴ Such a approach is largely consistent with Clausewitz's classic dictum that war is merely a continuation of politics by other means (Clausewitz 1984:87).

⁴⁵ In contrast, earlier formal work often conceptualized war as a single costly lottery, where bargaining ends with the decision to go to war (e.g Fearon 1995:387). Research incorporating bargaining processes into the conduct and termination of war is a rapidly growing field, but notable examples include (Smith 1998; Wagner 2000; Slantchev 2003b; Powell 2004; Smith and Stam 2004).

even extremely high levels of suffering. Punishment can also turn out to be counterproductive and actually harden the will of the enemy to resist (Pape 1996:21-26). Similar problems are also evident in the effect of combatant abuse as a denial strategy in undermining the military capabilities of the opponent. Abuse may simply make the remaining soldiers even more determined to continue to fight rather than risk surrendering. Instead of weakening the adversary, abuse may end up creating a smaller but more resolute enemy fighting force. Nevertheless, abuse has proven effective in some circumstances and during an escalating and increasingly desperate conflict states may turn to any strategy that increases their chances for victory, however remote (Downes 2008:38-39). This leads to the following hypothesis linking the severity of the fighting to the level of combatant abuse:

Hypothesis 2 (severity of warfare): Wars that are more severe (i.e. devolve into wars of attrition, or are longer and bloodier) are more likely to result in combatant abuse.

Along with these potential coercive motives, combatant abuse can also yield certain benefits that may be highly attractive during a long and severe war through a logic of extraction. Properly caring for prisoners can be expensive in both money and personnel. Reallocating funds away from maintaining prisoners frees up resources that can serve more pressing military and civilian needs. The incentives to exploit prisoner labor to a harsher degree would also seem to be higher the more severe the war, either by releasing domestic workers for enlistment in the military or by directly conscripting prisoners into the captor's own armed forces.

Yet again, costs also need to be considered, in particular the prospect that such measures would be counterproductive. Ironically, more severe wars could lead states to the opposite conclusion that actually improving the treatment of enemy combatants may be in their ultimate self-interest. As noted earlier, good treatment might increase the propensity of soldiers to surrender,

which could be an appealing option for individuals caught in long and bloody battles on the front lines. While attractive in theory, the practicality of such a strategy is often daunting. The coddling of foreign killers is likely to be unpopular in many circumstances with the captor state's own soldiers and citizens, especially if the public is being deprived of food and other necessities because of disruptions caused by the war. When finding themselves in a severe war, states may thus be more likely to calculate that the expected benefits of combatant abuse outweigh the costs that are likely to follow.

War Aims

States go to war over a variety of issues and seek to achieve a wide range of objectives through the use of force (Holsti 1991:12-20). Expansive war aims are probably more likely to encourage combatant abuse than more limited ends. Even in the case of ambitious goals, incentives may be mixed. States seeking objectives like regime change, or demanding unconditional surrender, are likely to find themselves fighting a more resolute foe given the stakes of the conflict. The discussion above on the severity of war applies equally to these issues as well, and suggests several similar reasons why states may turn to combatant abuse. When seeking unconditional surrender, however, one promising alternative route might instead involve undermining the fighting capacity of the adversary so that they have little choice but to comply. Encouraging the enemy's soldiers to surrender by guaranteeing their proper treatment presents a potentially attractive option for eroding that fighting capacity in high-stakes conflicts (Ferguson 2004:188-191).

When pursuing an alternative strategy like regime change, a belligerent needs to be mindful of the effect of the current conduct of the war on the stability and quality of the subsequent peace (Walzer 2000:132; Buzan 2002:90). Soldiers and the military more generally can be useful allies in stabilizing the domestic situation once the

previous regime is overthrown. Properly caring for soldiers during the war thus reduces the likelihood of creating a more stubborn foe once hostilities have ceased.⁴⁶ To the extent that such wars are severe, or that states are desperate to end them quickly and cheaply, then the incentive for combatant abuse may be higher, but in both cases countervailing incentives may reduce the likelihood of relying on such practices.

In contrast, one specific objective that points much more heavily toward the probability of combatant abuse involves states seeking to annex territory from their adversary. When explaining the reasons why states often target civilians in wars of annexation, Downes argues they do so because civilians represent a potential “fifth column” that can threaten stability and foment rebellion against the occupying state (2008:35-36). Following this logic, combatants are likely to pose an even greater menace than civilians to occupying powers, since they already have the training and organization necessary to present a more tangible threat.

The problem of what to do with prisoners at war’s end given their latent military power has vexed many captor states. Former prisoners have indeed played an often crucial role in the politics of both their captor and home states. After World War I the Czech Legion influenced the course of the Russian civil war by bolstering anti-Bolshevik forces (Kalvoda 1983:231-233). Similarly, the Communist takeover of Hungary in 1919, which eventually led to Hungarian-Allies War that same year, was largely led by former prisoners who had absorbed radical Bolshevik ideology during their earlier captivity in Russia (Durand 1984:123-124)

⁴⁶ Much attention has focused on the treatment of insurgents in the U.S. War on Terror, but in the case of Iraq prisoners were generally well cared for during the initial 2003 invasion to topple Saddam Hussein (Springer 2006:157; Vance 2006:210). Although the hasty disbandment of the Iraqi military after the war was over is often viewed as a rash decision, insurgent ranks would likely have swelled even more had the United States mistreated prisoners from the beginning and created further resentment among the Iraqi armed forces.

Of course, not all wars involving territorial prizes may be the same, and the corresponding incentives for states to resort to combatant abuse may not be equal. The desire to ruthlessly eliminate any future threat posed by enemy combatants is perhaps most salient in revisionist wars of territorial re-absorption. In such conflicts, the aggressor often seeks to directly take over lands that it considers should be part of its homeland. In this context combatants from the adversary are not only an unwanted element, but may directly challenge the state's hold on these newly acquired lands. Despite the public pretext to protect minorities under the control of the Ottoman Empire, the brutalities meted out to captured Turkish soldiers is better accounted for by the territorial ambitions of the various Balkan allies to wipe out any source of likely resistance in their newly acquired neighboring lands as they sought to extend their national borders (Fried 1914:4). Bulgaria was subsequently turned on by its former allies, who coveted further territorial gains at its expense. During the Second Balkan War that followed, Bulgarian soldiers suffered a similar fate to the one experienced earlier by their Turkish adversary (Hall 2000:136).

The German campaign against Soviet Russia during WWII is often described as an ideological war driven by ideals of racial superiority, but the territorial dimension of the conflict should not be overlooked. The living space (*Lebensraum*) sought by the Nazi regime was to come primarily at the expense of Soviet territory. The German leadership also realized that the threat posed by all Soviet prisoners was not equal. In the lead up to the invasion, German armed forces issued the Commissar Order (*Kommissarbefehl*), which mandated the immediate execution on site of all commissars found within captured Soviet armed forces. The preamble justified the order as follows, "To show consideration of these elements [i.e. principles of humanity] or to act in accordance with international rules of war is wrong and

endangers both our own security and the rapid pacification of conquered territory” (quoted in Browning 2007:220-221).

Conversely, other territorial conflicts do not necessarily entail such radical objectives, but rather involve states seeking to conquer enemy lands and exert control over subjected populations and resources. In this alternative context, eliminating military cadres might not always be the most effective strategy. Several scholars in the related study of imperialism have in fact argued that civilian and military elites in the targeted territory may in fact be a valuable resource for acquiring and maintaining rule over the local population. Disgruntled or ambitious sections of the target’s elite may ironically view conquest by an outside power as the quickest and most effective means to increase their relative power and standing within their society (Robinson 1972:117-118). Abusing enemy soldiers, or civilians for that matter, has the danger of becoming counterproductive to a conquering state’s interests if it is more likely to engender greater resistance to the occupier’s rule both by local elites and the wider population. Nevertheless, several wars of conquest indicate that the future threat posed by the adversary’s military forces continues to make combatant abuse an attractive strategy for aspiring conquerors despite any attendant risks. The systematic killing of defenseless Ethiopian troops by Italy during the 1935-1936 Italo-Ethiopian War only intensified afterward when Italian forces ruthlessly exterminated any remaining prisoners and later insurgents as it sought to cement its hold over Ethiopian territory (Sandford 1946:93; Barker 1968:304; Baudendistel 2006:223, 256).

Although the strength of the motives to commit combatant abuse in wars of conquest may not be as pronounced compared to revisionist wars of re-absorption, in both cases the lust for territory can lead to a general policy of extreme forms of violence against enemy combatants. The pattern of combatant abuse involving states

seeking territorial aggrandizement in any of its particular incarnations leads to following hypothesis:

Hypothesis 3 (territorial annexation): States aiming to annex territory from their adversary are more likely to commit combatant abuse.

In sum, belligerents aiming to annex territory from the enemy face strong incentives to use combatant abuse not only to gain the land in the first place, but also to improve their ability to maintain control long into the future. Taken together with the overall severity of the fighting, this suggests that the nature of the bloodshed wrought through war strongly conditions the ways states choose to treat enemy combatants. The main hypotheses relating to the nature of the belligerents and the bloodshed are summarized in Table 4 below.

Table 4: Summary of hypotheses on combatant abuse

Nature of the belligerent (regime type)	
▪Hypothesis 1a (Democratic norms):	Democracies are less likely to abuse captured combatants than nondemocracies.
▪Hypothesis 1b (Democratic institutions – first variant):	Democracies are more likely to abuse captured combatants than nondemocracies.
▪Hypothesis 1c (Democratic institutions – second variant):	Democracies are less likely to abuse captured combatants than nondemocracies.
Nature of the bloodshed (aims and severity of war)	
▪Hypothesis 2 (severity of warfare):	Wars that are more severe (i.e. devolve into wars of attrition, or are longer and bloodier) are more likely to result in combatant abuse.
▪Hypothesis 3 (territorial annexation):	States aiming to annex territory from their adversary are more likely to commit combatant abuse.

Cultural Differences as an Alternative Perspective

Many alternative explanations to the nature of the belligerents and bloodshed framework sketched out above have been proposed and will be evaluated in greater detail later on in Chapter 4. However, another factor that stands out in the larger historical literature on war and merits further consideration concerns the role of cultural differences between belligerents for explaining relative levels of combatant

abuse (Hevia 2007:106). The sparse but overall decent conditions Napoleon provided for captured soldiers from other European powers during the French Revolutionary Wars stood in stark contrast to his order to execute all Muslim prisoners during the Battle of Acre against the Ottoman Empire during the same period (Bedjaoui 1992:292). Similar contempt for soldiers from opposing cultures was evident in the remarks of an Italian officer during his country's first war with Ethiopia from 1895 to 1896: "A bit of Pizarro [referring to the Spanish conquistador] does not hurt; with some people terror works better than kindness" (Baudendistel 2006:221).

The flipside suggests that similar cultural backgrounds should be credited for breeding a greater degree of understanding and compassion among fellow belligerents. Fighting during the Chaco War between Bolivia and Paraguay from 1932 to 1935 was certainly at times quite pitched. Prisoners from both sides were nevertheless often viewed as unfortunate brethren caught up in a nasty war beyond their control, and as a result were generally treated in a decent manner (Zook 1960:101; Farcau 1996:61-63). Religious ties and a common sense of brotherhood are also cited as contributing to the lenient treatment Saudi Arabia accorded Yemeni prisoners during their war in 1934 (Jarman 1998:242).

The general logic underlying the role of cultural differences has recently gained a wider following through the so-called "clash of civilizations" thesis. As one of its foremost proponents, Huntington proclaims that civilizational differences, based primarily on religious values, has become the primary dividing line between states in the international system (Huntington 1996:47, 126). Social identity theorists posit that processes of in-grouping and out-grouping are ubiquitous and part of state's project in defining its identity, but with the side effect that competition between states can often become quite intense (Mercer 1995:241-245). Civilizational variants argue that religious differences are a particularly salient cleavage that is likely to lead to violent

conflict between dissimilar states. Research in this vein has tended to focus on the onset of conflict, but Huntington also implies that cultural differences will have implications for the subsequent conduct of wars: “Over the centuries, however, differences among civilizations have generated the most prolonged and the most violent conflicts” (Huntington 1993b:25). Abuse against combatants is arguably one of the more vivid manifestations of violence during war. The role of cultural differences in shaping combatant abuse leads to the following hypothesis.

Hypothesis 4 (cultural differences): Wars involving states from different cultures are more likely to result in combatant abuse.

Despite the compelling simplicity of the logic of the cultural argument, evidence that civilizational differences are a key determinant of the likelihood and bloodiness of war is mixed on both counts. Some scholars have indeed found that civilizational differences increase the probability of conflict between states (Henderson 1998:475-476).⁴⁷ Other research has shown, in contrast, that civilization exerts little or no effect on conflict initiation (Russett et al. 2000:595; Henderson and Tucker 2001:328; Chiozza 2002:726). Studies on the conduct of states once war has begun reveal similar results. Belligerents from different civilizations are no more likely to target the civilians of their opponent than belligerents sharing the same civilizational background (Downes 2006:174; Valentino et al. 2006:369-370; Downes 2007:891). Downes cautions that cultural factors may be more salient amongst soldiers on the battlefield and hence lead to greater atrocities in this area. Even here, he doubts this provides much insight into the behavior of higher authorities who are

⁴⁷ The findings from Henderson are not completely clear. Studying war onset from 1820-1989, he finds that religious similarity dampened conflict, while ethnic or linguistic similarity actually heightened the likelihood of conflict.

not necessarily brutalized in a similar manner, which is a requirement for explaining more systematic levels of abuse (Downes 2008:26).⁴⁸

Several historians taking a broader view of patterns in the treatment of combatants nevertheless continue to accord a great deal of importance to cultural factors. Beaumont examines a series of conflicts from World War II to the present and concludes that combatant abuse resulted in large part from “those persistent enemies of humanitarianism: mutual incomprehension of alien cultures, ideological fanaticism, and racial hatreds” (Beaumont 1996:280). Reflecting on an even longer timeframe involving the last two centuries of warfare, Best argues that “the circumstances most advantageous to observance of the law[s of war] were when armies of not dissimilar race, religion and general ethical notions (i.e. armies able to recognize in their foes ‘people of their own kind’)...faced and fought each other” (Best 1980:217-218).

In response to Best’s broad sweeping conclusions, others argue that if cultural similarity acts as such a restraint against the resort to atrocities then civil wars should not be nearly so bitter or bloody (Roberts 1994:136).⁴⁹ For all of the wars involving one country abusing prisoners from the opposing side, many other cases do not closely fit this pattern. In an exhaustive study of the Pacific Theater during World War II, Dower asserts that cultural differences and racial hatred accounted for the brutal nature of the fighting between Japanese and U.S. forces (Dower 1986:9, 35, 48-52).

⁴⁸ Downes makes this point in reference to a more specific dynamic through which war can brutalize its participants and make them more likely to commit violations. An extension from the point of view of civilizational proponents, however, might suggest that this process of brutalization should be expected to be more severe in the case of belligerents from different cultures.

⁴⁹ The broader civil war literature is more mixed on this point. Some scholars find that civil wars based on ethnic or religious differences are longer, bloodier, and more difficult to settle than wars centering on socioeconomic or political issues, which would lend some support to civilizational arguments (Kaufman 1996:139-143; Roeder 2003:523). However, others find little support for ethno-religious factors (Fearon 2004:286). Others present a more nuanced position that religious differences are not in themselves a key factor, so much as whether a belligerent is pursuing religious-based objectives. However, this argument is so far limited to the narrower issue of the probability that a war will end through a negotiated settlement rather than outright victory by one side or the other (Svensson 2007:941).

Yet Japanese treatment of peoples of Sinic origin, with whom they generally shared more similar cultural traits, was equally brutal, if not more so, than the treatment of U.S. and British combatants (Rees 2001:28). Furthermore, cultural differences did not prevent Japan from treating captured Russian and German soldiers in an exemplary fashion during earlier wars, such as the 1904-1905 Russo-Japanese War and World War I respectively (Hata 1996:257-262).

Others argue that it is not cultural differences per se that matter, but rather contrasting discourses of civilization and barbarism that are expressed by certain ideological groups within a given culture.⁵⁰ For instance, Kinsella believes these discourses help to explain the relative restraint U.S. forces have shown Muslim civilians during the War on Terror compared to their extensive abuse of combatants coming out of these same societies. The protection of “innocent” civilians is justified by a civilizing principle of humanity, while the contrasting lack of regard for combatants is merited by the latter’s construction as a barbarian foe. As she explains:

Specific rights of war are granted only to those so identified as already within the ambit of civilisation and, so it appears, humanity itself. By constructing a barbarous enemy, ‘akin to fascism, Nazism, and totalitarianism’ whose ‘murderous ideology’ may be different, but no less horrendous, as those of the early twentieth century, the rights and protections of war are rendered beyond their due (Kinsella 2005:183).

Rhetoric concerning the barbarism and immorality of terrorists and other insurgents is certainly widespread in official U.S. pronouncements, but this is not

⁵⁰ Another alternative, which still maintains the focus on cultural differences, suggests that differences on average might not be important, but that particularly hard-fought wars brutalize belligerents and make those differences in culture more salient. This appears largely consistent with Bartov’s view that ethnic difference can exacerbate already intense conditions on a battlefield and barbarize the frontline participants to an even greater degree (Bartov 2001:4, 155). However, a counter to this view might contend that processes of brutalization more often than not occur in particularly severe wars, meaning that any resulting behavior may be better accounted for by these underlying traits of the fighting rather than cultural attributes per se (Downes 2008:26).

necessarily equivalent to viewing these beliefs as the cause of U.S. behavior toward enemy combatants. Looking at Kinsella's own statement, if Fascist Italy or Nazi Germany were viewed as similarly barbaric, then it is not clear why the United States treated Axis prisoners on the whole quite well (Beaumont 1996:279). Similarly, during the First Gulf War in 1991, President George H.W. Bush likened Saddam Hussein to Hitler and Iraqi troops to his Nazi henchmen, yet the United States scrupulously ensured that Iraqi soldiers seeking to surrender were protected and treated decently upon entering into captivity (U.S. News and World Report 1992:123, 143, 174; Roberts 1993-1994:161). The ICRC even went so far as to described U.S. conduct toward Iraqi prisoners during the war as "the best compliance with the Geneva Convention by any nation in any conflict in history" (U.S. Department of Defense 1992:577).

Discourses of barbarism and the emphasis on the "otherness" of the enemy may sincerely reflect fundamental cultural differences between the belligerents. Barbaric rhetoric remains far more common, however, than the actual abuse of combatants during war. Cultural clashes appear to be associated just as often with respect for the rights of the enemy rather than their violation. A common alternative explanation for similar forms of rhetoric is that they can serve as an instrumental device to mobilize public support behind the government during trying times that often demand great sacrifices from the citizenry, of which crises and especially wars are some of the most noteworthy examples (Christensen 1996:17).

Although I have raised some concerns over the purported consequences of images of barbarism, untangling the precise role of these discourses would require a systematic study of their relative frequency, intensity, and specific content. Examining the many characteristics of wartime discourses and representations of the enemy involves an enormous endeavor in and of itself. For instance, Dower's impressive

study of Japanese and U.S. images of each other over the course of the Pacific War was based on an analysis of a wide range of official government statements, private correspondence, newspaper and magazine articles, and even political cartoons (Dower 1986). Expanding Dower's framework to a host of other states and conflicts, in addition to evaluating the nature of the belligerents and bloodshed framework developed in this chapter, is unfortunately beyond the scope of the present study. I limit the analysis to evaluating the more modest hypothesis (H4) outlined earlier regarding the impact of ex ante cultural differences on the probability of combatant abuse. A perspective focusing on cultural differences offers one of the most widely argued alternatives to the nature of the belligerents and bloodshed framework outlined earlier, and is certainly deserving of a more extensive evaluation.

Conclusion

In this chapter I provided a detailed definition of the elements making up combatant abuse. In order to be considered combatant abuse, violations must be committed against combatants who have laid down their arms, be intentional, be sanctioned by the political or military leadership, but can also involve a variety of either direct or indirect forms of abuse. A subsequent analysis of the costs and benefits of combatant abuse reveals that states possess a wide range of incentives that could either lead them adopt or shy away from adopting this strategy.

The next half of the chapter was then devoted to developing the core theory of the causes of combatant abuse, which focused on two key components – the nature of the belligerents and the bloodshed. The nature of the belligerents emphasized the importance of democracy for understanding how domestic attributes of the state can condition the likelihood that it will resort to combatant abuse. Separate normative and institutional variants were proposed for understanding what makes democracies distinct from other regime types when it comes to abusing prisoners. The second

component shifts emphasis away from domestic characteristics of the parties and focuses instead on the nature of the bloodshed during war. Two traits involving the nature of the bloodshed were proposed as being particularly salient and substantially increase the likelihood a state will resort to combatant abuse. These were the severity of the fighting on the battlefield and the type of objectives states seek to attain through war, in particular territorial annexation. The last part of the chapter discussed cultural differences as one other commonly cited alternative explanation for combatant abuse, though others will be put forward in subsequent chapters.

The remaining chapters in the manuscript turn to evaluating in a more systematic manner the arguments put forward here and to assess the relative explanatory power of the nature of the belligerents and the bloodshed framework. The next two chapters assess the theory in a quantitative manner by first tracing trends in combatant abuse over the previous century of interstate warfare and then conducting a statistical analysis of the causes of combatant abuse. The following chapters then rely to a greater extent on qualitative evidence to assess whether the logic underlying the overall theoretical framework is supported across several different historical case studies.

CHAPTER 3

MEASURING AND IDENTIFYING TRENDS IN COMBATANT ABUSE

Introduction

The purpose of this chapter is to translate the general concept of combatant abuse introduced in the previous chapter into an operational measure that can be used to examine the treatment of prisoners across a large number of wars. The chapter proceeds in the following three sections. First, I discuss the cases forming the core of the overall data set, which concerns the treatment of prisoners during all interstate wars from 1898 to 2003. Second, I introduce a measure for the main dependent variable of combatant abuse. I also discuss some of the challenges that must be addressed when attempting to code the treatment of prisoners during war. In the third section I then use this measure of combatant abuse to examine some overall trends in the treatment of prisoners over more than one hundred years of interstate warfare.

Data on Interstate Wars

The data set consists of all interstate wars from the end of the nineteenth century, which begins with the Spanish-American War in 1898, to the 2003 interstate portion of the Iraq War. I made the decision to restrict the type of war and time period considered for this study for a number of reasons. First, the time intensiveness and general challenges of coding prisoner treatment, which is discussed in greater detail below, meant I decided to limit the analysis to interstate wars instead of including other types of armed conflict, such as civil or colonial wars. Data was also generally of a higher quality for interstate wars compared to other conflict types, which allowed for greater accuracy in the coding of prisoner treatment. The analysis focuses on interstate wars, but extending the data collection effort to other types of warfare certainly remains a fruitful area for further research.

Second, earlier conflicts were excluded because of the lack of accessible and reliable data on the treatment of captured combatants. I chose to limit the analysis to a time period during which a wide range of scholarly and other primary sources were available to determine the level of combatant abuse for the various belligerents in a given war. One of the additional benefits of the time period chosen is that it matches quite closely to the development and codification of the laws of war, also known as international humanitarian law. Admittedly, the first most commonly accepted international treaty dealing specifically with the laws of war was negotiated much earlier with the 1864 Convention for the Amelioration of the Condition of the Wounded in Armies in the Field. As the title of the convention makes clear, however, it was fairly narrow in scope and dealt only tangentially with issues related to prisoners of war.⁵¹ In contrast, the 1899 Hague Conventions are widely considered to represent the foundation of the modern laws of war. The Conventions provide the basic definition and principles for the treatment of prisoners of war, which have largely continued in a similar form up to the present day, though with some further inclusion and elaboration of certain rights and responsibilities (Vance 2006:171-172, 200). The wars considered in this data set thus involve belligerents who at least had an understanding of the general prevailing international rights and obligations concerning the treatment of prisoners during war, whether or not they actually ascribed to and followed these principles themselves.⁵²

⁵¹ For instance, Article 6 of the Convention discusses the treatment of wounded soldiers from the adversary, but allows for many of the details to be negotiated between the warring parties. See <http://www.icrc.org/ihl.nsf/FULL/120?OpenDocument>.

⁵² Although it should be noted this is distinct from estimating the actual effect of international laws and norms on the resort to combatant abuse by states during war, which is a separate empirical question taken up in the following chapter.

The list of wars is based primarily on the Correlates of War (COW) Inter-State War dataset (v3.0) with a few notable changes (Sarkees 2000).⁵³ First, as has become increasingly common in the larger quantitative conflict literature, several long multi-actor wars are divided into a series of separate military confrontations that more accurately capture the actual fighting between the relevant belligerents (Reiter and Stam 2002:39; Downes 2008:43). World War I was separated into four individual conflicts, World War II into nine separate conflicts, and the 1990-1991 Persian Gulf War into the Iraq-Kuwait and U.S. Coalition-Iraq conflicts.⁵⁴ Second, a number of wars are included that, according to several criteria, qualify as interstate wars but for various reasons are not found in the COW data.⁵⁵ The final data set contains 67 wars in total, which are summarized in a table found in the appendix.⁵⁶

The unit of analysis is the warring-directed-dyad. This means that in a war there are two observations for any pair of opponents, where each is a potential violator/victim in a given directed dyad. For instance, Falklands-Great Britain-Argentina codes British treatment of Argentinean prisoners during the 1982 Falklands

⁵³ Following COW, an interstate war is defined as a military conflict between two states, in other words two recognized members of the international system, which resulted in a minimum of 1,000 battle fatalities among the states involved. An individual state is counted as a participant in the war if it had a minimum of 1,000 armed personnel engaged in the hostilities, or sustained a minimum of 100 battle fatalities (Small and Singer 1982:55).

⁵⁴ Others also divide the Vietnam War into a U.S./South Vietnam-North Vietnam conflict from 1965 to either 1973 or 1975, and a subsequent South Vietnam-North Vietnam conflict from either 1973-1975 or for 1975 only (Reiter and Stam 2002:39; Downes 2008:43). For the purposes of combatant abuse, this distinction seems less relevant and is not adopted. Both North and South Vietnamese forces continued to hold prisoners from the 1965-1973 period after the U.S. withdrew its military forces from the conflict. Separating the treatment of these earlier prisoners from those captured later is thus problematic. Moreover, the general policies of both the North and South Vietnamese sides did not change substantially, which suggests that combining the two periods together still allows for a reasonable measure of each state's overall treatment of enemy combatants.

⁵⁵ These conflicts are Chad-Libya (1987), the Nagorno-Karabakh War between Armenia and Azerbaijan (1992-1994), Ethiopia-Eritrea (1998-2000), Kosovo (1999), Kargil (1999), United States-Afghanistan (2001), and United States-Iraq (2003). Many of these conflicts update the most recent version of the COW data set, which ends in 1991 with the Persian Gulf War.

⁵⁶ The table in the appendix actually lists 69 wars for the time period 1898-2003, but two observations were unable to be coded due to insufficient information. These were WWI if German-Yugoslav (1941) and the Second Sino-Vietnamese War (1987).

War, while Falklands-Argentina-Great Britain correspondingly measures Argentinean treatment of British prisoners during the same conflict. In wars involving more than two parties, there are two corresponding observations for each pair of states fighting on opposing sides. In theory, this suggests an enormous number of observations for large conflicts such as both world wars. In practice, however, most wars involve only a handful of states that can be considered relevant when assessing the treatment of prisoners.

The data set is limited solely to those states deemed to be “capable captors.” A state is considered a capable captor if it meets both of the following two criteria. First, a state must have the capacity for an independent prisoner policy. This is not really a concern in wars between only two states, but in conflicts involving large coalitions subordinate alliance partners often have little leeway in adopting separate military practices from their more powerful patrons. For instance, during the Korean War allied forces were nominally under a unified United Nations command, but the United States dominated all aspects of the planning and prosecution of the war, especially with regards to prisoner policy (Springer 2006:212). As historian Max Hastings remarked, “Beneath a thin veneer of respect for the authority of the United Nations, Americans conducted the war as they saw fit.” (Hastings 1987:332). States in such a subordinate position should not be treated as separate observations, since their behavior is not independent but instead largely determined by their larger ally.⁵⁷

⁵⁷ There may be some concerns that selection effects may be operating regarding which types of states are found to be capable captors among coalition forces. Lead states in a coalition may choose which of its allies to delegate independent prisoner policies based on their expected behavior toward enemy combatants. For instance, if democracies are indeed more humane captors than nondemocracies, then democratic lead states may prevent potential allied transgressors from acquiring an autonomous prisoner capacity. According to this logic, the United States might have prevented Ethiopian or Colombian troops from developing their own prisoner policies during the Korean War because they feared these allies would commit greater levels of abuse. Even if this was the case, this selection effect likely presents an even tougher test of the democracy finding since several hypothetical “evil” autocratic captors would not be observed, which otherwise would have been if this dynamic were not

Coding subservient allies as separate independent observations thus in many ways engages in a form of double counting.

Other scholars have dealt with the issue of subordinate allies in different ways. Morrow and Valentino et al. group allies together and weight all relevant independent variables by the individual contributions of each state to the alliance (Valentino et al. 2006:358; Morrow 2007:571).⁵⁸ If several members are truly subordinate, then it arguably may make more sense to focus on the characteristics of the lead state, since it is more likely that policy is being driven by its traits on relevant variables rather than an aggregation of allied values. On the other hand, if an alliance partner is deemed to have an independent policy, then it would be preferable to reflect this situation more directly by creating a separate observation for that state. I choose to follow this alternative procedure. States that fight on the same side but are found to have independent prisoner policies are given separate observations, while subordinate allies that lack an independent policy are excluded.

Second, even if a state is deemed sufficiently autonomous to possess independent decision-making capacity, it must also have a sincere opportunity to either treat or mistreat enemy combatants whatever the case may be. In other words, in order to be considered a truly capable state for the purposes of this study the

operating. On the other hand, democracies might choose to transfer prisoners to their harsher autocratic allies to allow them to do the dirty work in dealing with captives. This possible phenomenon of rendition would in turn seem to count against the “good” democracy effect. Several charges along these lines have been made against the United States during the ongoing War on Terror with regards to the transfer of particular suspects to other countries where they were subsequently abused and tortured (Mayer 2005). However, I follow international legal principles whereby the original captor state ultimately remains responsible for the proper treatment of prisoners even after they have been transferred to a third party (e.g. 1949 Third Geneva Convention Art.12). Neither scenario appears to pose a serious source of bias and, if anything, provides an even stronger test against the benevolent democracy hypothesis.

⁵⁸ In their study on the targeting of civilians, Valentino et al. treat all coalitions in this manner, even those where individual allies might be deemed to possess an independent capacity for implementing the issue at hand. All wars in their data set, therefore, involve only two observations, one for each side. Along with greatly reducing the number of observations, this approach also implicitly aggregates potential differences in the behavior of allied members.

belligerent must have actually captured enemy combatants during hostilities. Most wars indeed involve both sides capturing substantial, though not necessary equal, numbers of soldiers from the opposing side. However, in cases of particularly one-sided fighting it is not uncommon for the losing side to capture few if any prisoners from their superior adversary. During World War II Belgium was quickly overrun by Germany's armed forces and records indicate no German prisoners were captured (Warmbrunn 1993:45-48). Similarly, Saudi forces easily pushed aside Yemeni defenses during their war in 1934, meaning Yemen had little if any opportunity to capture opposing combatants (de Gaury 1966:35; Wenner 1967:145).

Coding such cases as countries that do not engage in combatant abuse would equate states that never had a meaningful chance to harm enemy combatants with those states that actually had an opportunity and chose to treat their captives in a decent manner. The latter are legitimate examples of negative cases of combatant abuse since the state in question committed few if any violations against their prisoners. In contrast, the former are better seen as irrelevant since the resort to combatant abuse is impossible because no prisoners were captured in the first place (Mahoney and Goertz 2004).⁵⁹ The sample is thus limited to cases of states that had both an independent prisoner policy and an opportunity to harm enemy combatants.⁶⁰

⁵⁹ While Mahoney and Goertz discuss the issue of negative cases in the context of small-n research designs, they note their approach is equally relevant for large-n quantitative analysis as well (Mahoney and Goertz 2004:654).

⁶⁰ For a similar discussion in the study of civilian victimization, see Downes (2008:57-58). Given his subject matter, the criteria he uses for what constitutes a "capable" state are somewhat different. We share an emphasis on whether or not the state in question was a subordinate alliance partner, but he also includes whether the state's forces invaded the territory of the adversary, or whether it possessed air, missile, or naval forces able to bomb or blockade the enemy. Both of these additional criteria make more sense for civilian victimization, since each provides a greater opportunity to harm civilians. However, neither is a necessary condition for combatant abuse as defined in this study. A defending country can take plenty of prisoners even when fighting on its own territory, as was evident with Soviet Russia throughout the German invasion of its territory during World War II. Similarly, combatant abuse does not depend on missiles or other capital-intensive weapons, since it often requires only a simple firearm for execution, or crude tools for other forms of abuse. The key defining feature of combatant abuse is that the belligerent must actually hold prisoners as a prior step before considering their

Examples of states that are considered participants in particular wars, but are not deemed to be capable captors for the purposes of this study, are provided in Table 5 below.

Table 5: Examples of non-capable captors during interstate wars, 1898-2003

Non-Capable Captor	Opponent	Year(s)	War	Reason
Germany	Japan	1914-1918	WWIa (Western Allies- Central Powers)	No opportunity
South Africa	Germany	1939-1950	World War II (Germany- Western Allies)	Not independent
Ethiopia	North Korea	1951-1953	Korean War	Not independent
Egypt	United Kingdom	1956	Sinai	No opportunity
Kuwait	Iraq	1990	Iraq-Kuwait	No opportunity

Measuring Combatant Abuse

Combatant abuse is defined as a military strategy enacted by political and military authorities that involves the intentional killing or harming, either directly or indirectly, of enemy combatants who have laid down their arms and surrendered. War remains a brutal business and it is inevitable that all too many soldiers will die during the heat of battle. Soldiers who raise their hands to surrender have removed themselves, in theory, from the line of fire and it is their treatment that is the focus of this study. Mistreatment can take one or a combination of several forms, including torture, execution, and hard labor. Since my focus is on the conduct of states during war, violations that occur after hostilities have ended are excluded when coding combatant abuse for the purposes of the large-n research. This means that issues such as the exploitation of prisoner labor for postwar reconstruction, or the length of time

treatment. If a belligerent does not obtain any prisoners, then discussing their level of combatant abuse requires a hypothetical scenario considering what they would have done, which is beyond the scope of the current study. Downes notes that excluding non-capable states could introduce a selection bias, whereby states that are less likely to wish to harm civilians are also less likely to develop the necessary technological capabilities to be able to target civilians in the first place (2008:57). However, since high-tech capabilities are not a prerequisite for combatant abuse, this concern is less relevant when dealing with issues related to prisoners.

until repatriation, are not considered in the quantitative analysis, but certainly remain relevant for grasping a fuller picture of the fate of prisoners resulting from war.⁶¹

Implementing a measure for the concept of combatant abuse presents several challenges. First, violations may be state-sanctioned, but others may be committed by individual or small groups of soldiers without consent from higher-level authorities (Morrow 2001:974-978). As is evident from the definition for combatant abuse presented above, I choose to focus only on those acts that are either explicit state policy, or because of an established pattern of widespread practice are considered to be de facto state-sanctioned.

Second, constructing an interval-level measure, such as the percentage of prisoners dying in captivity relative to the number of prisoners held, is inherently problematic because of limitations in the available data. The oft-quoted “fog of war” is quite literal when it comes to figures on the treatment of combatants and makes precise measures of combatant abuse extremely difficult to obtain. Moreover, prisoners do not have to die to suffer, since torture or lifelong ailments caused by poor nutrition should also be considered to be painful forms of abuse. Despite limitations in the feasibility of more fine-grained measures, a perusal of the historical record certainly reveals substantial variation in the treatment of combatants. I chose to construct an ordinal measure reflecting a broader set of distinctions in the treatment of combatants, which places each case of combatant abuse into one of three categories: high, moderate, or low. “No violation” is not included as a separate category, but is rather included under low-level combatant abuse, since during war it is almost unavoidable that belligerents will harm prisoners in some way.⁶² Low-level abuses are likely the best that can be reasonably achieved during wartime, at least for the period

⁶¹ Some of these postwar prisoner issues are indeed taken up in several of the later case study chapters.

⁶² For similar reasoning from the study of targeting civilians during civil war, see Stanton (2005:18).

under study, and thus represent the minimum value chosen for the dependent variable. The overall strategy of employing a categorical measure is also in line with many other quantitative data sets studying the conduct of states or other warring parties during armed conflict, which reflects similar challenges in data collection.⁶³

High-level cases involve state-sanctioned, widespread, and systematic abuse of prisoners. Although differences in the overall extent of violence may still certainly exist, cases included in this category generally involve captors who show little to no regard for the rights of prisoners who fall into their hands. Every single prisoner might not necessarily be killed or horribly violated, but a general policy and expectation exists that prisoners will likely be treated in a brutal manner. Examples include Japanese treatment of Allied prisoners during the Second World War, or British and French treatment of Chinese prisoners during the Boxer Rebellion.

At the other extreme are low-level cases where prisoners are generally treated well and abuses are rare. In a corresponding manner to high-level cases, this does not necessarily mean abuses never occur during the course of the conflict. Warfare unfortunately, but almost inevitably, entails a harsh reality for most participants and the lot of prisoners is far from ideal even in the best of circumstances. Captivity causes a great deal of mental hardship and often exerts a lasting psychological toll on prisoners, which has become commonly known as “barbed-wire disease,” even when their physical safety is respected (Britt et al. 2006:95-96). What distinguishes low-

⁶³ Other examples of studies relying on categorical dependent variables include (Valentino et al. 2004; Stanton 2005; Downes 2006; Valentino et al. 2008). In one of the most systematic studies of the treatment of civilians during war, Downes uses a continuous measure for the targeting of civilians (number of civilians killed), but also includes a number of alternative categorical measures (Downes 2008:44-47, 62-64). Examples of studies that rely solely on continuous measures include Valentino et al.’s research on the determinants of the number of civilians killed during twentieth century interstate conflicts (Valentino et al. 2006). Humphreys and Weinstein also use a continuous dependent variable, in this case for the treatment of civilians during the civil war in Sierra Leone, but their measure is constructed by conducting factor analysis of a number of categorical variables drawn from survey responses (Humphreys and Weinstein 2006:435, 446).

level cases is that abuses are the rare exception rather than the rule. Low-level cases are perhaps better thought of as the best case scenario possible out of a range of poor options facing soldiers who surrender during war. Examples include U.S. treatment of Iraqi prisoners during the 1991 Gulf War.

Between the two extreme points lie medium-level cases, where abuses certainly occur to a much greater extent than at low-level instances, but are overall less common or extensive compared to high-level abuse. This category may also include more frequent individual acts of abuse which are not explicitly supported by the state, but nor are firm steps taken by state authorities to prevent further acts from taking place. Examples include U.S. treatment of North Korean and Chinese prisoners during the Korean War. For illustrative purposes, a selection of historical cases from each of the high, medium, and low levels of combatant abuse is provided in Table 6 below.

Table 6: Examples of combatant abuse in interstate wars

Level	War	Year(s)	Violator	Victim
High	Boxer Rebellion	1900	China	Russia
	Second Balkan	1913	Serbia	Bulgaria
	WWII (Pacific Front)	1941-1945	Japan	United States
	Iran-Iraq	1980-1988	Iraq	Iran
Medium	Italo-Turkish	1911-1912	Italy	Turkey
	WWII (Eastern Front/ Continuation War)	1941-1944	Finland	Russia
	Six Day	1967	Israel	Egypt
	First Sino-Vietnamese	1979	China	Vietnam
Low	Russo-Japanese	1904-1905	Japan	Russia
	Chaco	1932-1935	Paraguay	Bolivia
	Second Kashmir	1965	India	Pakistan
	Falklands	1982	Argentina	United Kingdom

Although each case is ultimately categorized as exhibiting either high, medium, or low levels of violations against prisoners, the overall coding of combatant

abuse for each warring-directed-dyad is initially drawn from separate measurements for the following six distinct forms of violations: execution, torture, denial of legal rights, compulsory military conscription, hard labor, and poor housing and nutrition. These violations were chosen because they correspond closely to the “grave breaches” outlined in the Third Geneva Convention of 1949, which are considered particularly heinous violations of prisoner rights under international law.

Most of the individual violations were coded according to the same high/medium/low classification system, but a dichotomous coding was chosen as more appropriate for the forced conscription and legal rights components. In contrast to the greater degree of gradation in treatment across the other measures, in both of these cases prisoners were either forced to serve or not in the captor’s armed forces, or their legal rights were or were not infringed upon. Since forced conscription involves placing prisoners back into the line of fire and is widely viewed as a *sui generis* grave breach of the laws of war, violators for this variable were automatically coded as “high” overall.⁶⁴ On the other hand, since denial of legal rights does not in and of itself cause direct physical harm to the prisoner, violators of this variable were coded as “medium,” provided they did not score any higher on the remaining components. Of course, if the denial of legal rights resulted in summary execution or other relevant abuses like torture, then this is also reflected under the other appropriate component variables.

The six individual component violations are then used to construct the overall summary indicator of the level of combatant abuse based on the following decision

⁶⁴ The official commentaries provided to the Geneva Conventions discuss in greater detail the unique problems and threat for prisoners posed by the crime of forcible conscription. See, <http://www.icrc.org/ihl.nsf/COM/375-590156?OpenDocument>. For a more general discussion of the dangers inherent in compelling prisoners to perform military service, see (Gutman and Rieff 1999:100-101).

rule. The highest level of abuse perpetrated by the violator state across the six components is used to code the overall summary indicator of abuse for a given warring-directed-dyad. For instance, if a state is found to have engaged in high levels of abuse for execution against prisoners from an adversary, but low levels of abuse for labor conditions, it is still considered to have engaged in high levels of abuse overall. I chose this rule to hold states to a more stringent standard of expectations, since any of the individual violations on their own is considered a war crime and punishable under international law.⁶⁵ However, it should also be noted that subsequent statistical results using this measure of combatant abuse do not change substantially when relying on different rules for aggregating the component variables, as will be discussed in further detail in the following chapter.

I rely mainly on secondary historical resources supplemented by primary documents for coding the component variables for combatant abuse. Scholars have become increasingly aware of concerns over selection bias when studying particular historical episodes (Lustick 1996:606). Bias can occur because of tendencies by the original author of a historical account to favor certain actors or viewpoints over others. These biases can be compounded if the present-day researcher ends up systematically selecting certain historical works over others and thus forms an overly one-sided account of the subject (Thies 2002:362). Issues of this sort are particularly acute in the study of combatant treatment since perpetrators often have an incentive to conceal the extent of their violations. On the other hand, it is also common during war for opposing sides to hurl charges and counter-charges of alleged atrocities back and forth

⁶⁵ On the desire to distinguish certain acts of violence during war as particularly egregious, see the Commentaries to Article 130 of the Third Geneva Convention, available at <http://www.icrc.org/ihl.nsf/1a13044f3bbb5b8ec12563fb0066f226/ac8bb88157e3f8b4c12563cd004299a8!OpenDocument>. On the status of these grave breaches as official war crimes under international law, see Article 8 of the 1998 Rome Statute of the International Criminal Court (ICC), available at <http://www.icrc.org/ihl.nsf/FULL/585?OpenDocument>.

for propaganda purposes. Separating out reality from rhetoric during wartime can oftentimes be a daunting task. I attempt to minimize the extent of these biases by employing to the greatest degree possible multiple sources for each war. I also sought to rely on sources that were written well after the war, or by scholars not party to the conflict and who were thus less likely to weigh the evidence in favor of one side or the other.

The final data set is based on a substantial amount of original research where the coding for each observation often draws on a large number of different sources. Using a variety of sources helps to produce a sort of “quasi-triangulation” that can increase our confidence about the likely patterns in the behavior of the actors being studied (Lustick 1996:616). The ordinal scale used for measuring combatant abuse also takes into account the uncertainty inherent in the historical record by specifying a broad, yet meaningful, range of variation in the level of violations committed by states against enemy combatants during war.

A few comments are also in order regarding alternative measures of combatant abuse. Compared to research on civilian victimization, quantitative studies of combatant abuse remain relatively sparse. Most of the existing research on the treatment of prisoners comes out of the historical literature, which often focuses on one or a handful of cases in great detail.⁶⁶ The approach taken in many historical works has the advantage of paying particular attention to the unique contextual factors that often distinguish individual episodes, but with the trade-off of demonstrating less ability to generalize across a wider range of cases and grasp broader patterns in the conduct states (Levy 2001:54). The measure of combatant abuse I develop is

⁶⁶ Examples include Speed’s study of international diplomacy over prisoners during the First World War, and MacKenzie’s briefer but wide-ranging work on prisoner policies by the major powers during the Second World War (Speed 1990; MacKenzie 1994).

necessarily a crude reduction of an immense amount of information on each individual historical episode of combatant abuse. In this light, my measure and the resulting research strategy is perhaps best seen as complementary to existing studies in the historical literature. I seek to identify the causes of combatant abuse across a much larger set of cases, while remaining fully cognizant of the necessary compromise to sometimes disregard some of the unique details in each case at hand.

In contrast to the historical literature, one of the only other examples of work involving quantitative data on the treatment of combatants is Morrow's recent study of compliance with the laws of war more generally (Morrow and Jo 2006; Morrow 2007). Morrow collects data on the treatment of prisoners during interstate wars, but also examines conduct of states across a number of other issue areas, including aerial bombing, respecting armistice/flag of truce, chemical and biological weapons, treatment of civilians, cultural property, conduct on the high seas, treatment of the wounded, and declarations of war (Morrow and Jo 2006:95-96). Examining the period from 1900 to 1991, the sheer scope of the study is impressive and it remains the most expansive and authoritative data set to date on compliance with the laws of war.

Some important differences are evident between our two approaches. First, Morrow includes both individual and state-level abuses while I concentrate my analysis on the latter. As noted in the theory chapter, the causes of the two forms of abuse may in fact be quite distinct, so I choose to focus on the narrower phenomenon of state-level combatant abuse.

Second, measurement for the dependent variable also differs somewhat. Morrow's general indicator is based on multiplying two separate four-point measures for noncompliance with the laws of war – magnitude and frequency – to create a 16-point scale (Morrow and Jo 2006:106-107). This scale is then condensed to create a four-level ordinal indicator for non-compliance (no violation, infrequent, common,

massive) rather than the three-level indicator I employ (low, medium, high). Morrow's use of multiple composite indicators is an attractive approach, but the two measures of magnitude and frequency overlap to a certain extent and thus contain elements of each other when put into practice.⁶⁷ We differ in that I focus instead on measuring different types of abuse to construct an overall indicator for the treatment of combatants.

Third, there are several differences in coding decisions. The enormous breadth of the Morrow study, covering nine separate aspects of the laws of war, inevitably involves a trade-off in terms of depth when coding each observation and issue area. The result is a readily admitted problem of missing data for many issue areas and wars (Morrow 2007:562-563). In the case of prisoners of war, almost 37 percent of the observations are missing.⁶⁸ Along with covering a shorter time period by ending in 1991, this means that a large number of cases are absent from the data set. The solution adopted by Morrow is to substitute for missing values using a series of standardized codings, which in the case of prisoners of war assigns the categorical level of noncompliance as "infrequent," or a 6 on the 16-point scale for noncompliance (Morrow and Jo 2006:98-99). Cases receiving such codings include such disparate observations as Guatemala in the 1906 Third Central American War, both belligerents in the 1929 Sino-Soviet War, and Egypt during the 1956 Sinai campaign.

Assuming by default that all of these states must have exhibited the same relatively decent level of compliance seems problematic not least because according to

⁶⁷ For instance, "magnitude" is also a four-level variable like the composite compliance indicator, but the top two levels refer to "some major violations" and "many major violations such that compliance does not matter" respectively, which explicitly incorporates the frequency of violations (Morrow and Jo 2006:97). Similarly, the highest category for "frequency" refers to "massive violations to the point where the standard is ignored," which incorporates a measure for magnitude. Therefore, it is not clear the degree to which the two components are capturing distinct elements of noncompliance.

⁶⁸ I thank James Morrow for making his replication files available.

Morrow's own analysis compliance with laws protecting prisoners is amongst the lowest across all of the issue areas of war in his study (Morrow 2007:567). By focusing on a single issue I admittedly sacrifice the breadth evident in Morrow's more far-reaching study, but at the potential advantage of being able to examine a wider range of sources for each case and coding a larger number of observations overall.⁶⁹ Moreover, several of the standardized codings are cases involving states I find to be "noncapable" captors. Treating these observations as exhibiting relatively low levels of abuse raises the problem noted earlier of conflating cases where the state actually treated prisoners well with those where the captor state never had the independent capacity or the opportunity to abuse prisoners in the first place.

Despite some of these differences, and in a similar manner to the larger historical literature, my data and Morrow's should ultimately be viewed as complementary. We use different measures and coding decisions for our main dependent variable and my study looks at only a small part of the broader behavior of states during war which is the focus of his much larger research agenda.

Trends in Combatant Abuse

How common is it for prisoners to be abused once they surrender, or are they actually cared for in a fairly decent manner more often than we might think? Although there have been several historical examples of both brutal and benevolent treatment of prisoners, identifying overall trends in the conduct of captor states has been difficult without developing a common measure of combatant abuse. With such a measure in

⁶⁹ The implications are not insignificant. For instance, Italy during its 1935-1936 war against Ethiopia is given the standardized coding of "infrequent" prisoner violations in Morrow's data set. My reading of the case indicates Italy in fact engaged in frequent and massive violations of Ethiopian prisoners, which suggests instead that the case should be coded as "massive" or at the very least as "common," according to Morrow's scale. Several scholars cover the Italian case in greater detail (Del Boca 1969; Durand 1984; Bugnion 2003; Baudendistel 2006). Missing data still remains an unavoidable problem in both data sets. I was unable to obtain measures for 21 out of 262 total cases, or 8 percent of the observations.

place, in the following section I seek to outline some of the general patterns in the treatment of prisoners across interstate wars from 1898 to 2003. As will become evident, there is substantial variation in the treatment of prisoners by level of abuse, across time, and even by the specific type of violation.

Tables 7 through 12 report the frequency and corresponding percentage of cases falling into each level of abuse for the six types of component violations respectively. The total number of cases included differs in many instances since some types of violations involved higher levels of missing data than others. For instance, data was generally much more readily available for execution, while obtaining reliable information on labor practices was more difficult. Table 7 below deals with execution and indicates that while high levels of abuse are less common than either medium or low levels, which fare about equally well, in more than one in four cases captors possess a policy of systematically killing their prisoners. High levels of execution inflicted by Somalia against Ethiopian prisoners during the 1977-1978 Ogaden War might not be the norm, but the more benevolent conduct of India in safekeeping the lives of many Pakistani prisoners during the 1999 Kargil Conflict is far from the majority practice in warfare (de Waal 1991:311; Kargil Review Committee 2000:153). A similar pattern is evident in Table 8 for cases involving high levels of torture though in almost half the cases the use of torture is relatively low. This suggests captors may at least prefer to kill their prisoners outright rather than cause them to suffer greatly if they choose to abuse them. Chinese treatment of Russian prisoners during the 1900 Sino-Russian War nevertheless shows that torture can be an ever-present fate for captured prisoners (Lensen 1967:19, 222-224).

Table 7: Relative frequency of execution across interstate wars

	Frequency	Percentage
High	55	27.50
Medium	72	36.00
Low	73	36.50
Total	200	100

Table 8: Relative frequency of torture across interstate wars

	Frequency	Percentage
High	49	25.65
Medium	48	25.13
Low	94	49.21
Total	191	100

The reality that the fortunes for most prisoners are more often than not difficult in summed up in Table 9. The table shows that almost two-thirds of all cases involve prisoners who have their rights denied in some meaningful sense. The results for the denial of legal rights are perhaps not completely surprising, since this is the broadest category in terms of type of abuse and cannot be completely divorced from many of the other types of violations.⁷⁰ On the other hand, the relative rarity of forced military conscription displayed in Table 10, which involves only two confirmed cases in the data set, indicates that not all types of violations are resorted to in an equal manner.⁷¹ The reluctance of captors to force enemy combatants to serve in their armed forces is not completely surprising, since this policy essentially puts weapons into the hands of erstwhile enemies, which is obviously not without grave risks.

⁷⁰ For instance, if a captor engages in summary execution of prisoners, then this counts as a denial of legal rights, in this case of a fair trial before punishment, and is coded accordingly.

⁷¹ The two cases of forced military conscription concern Russian treatment of Polish prisoners and German treatment of Soviet prisoners, both of which occurred during the Second World War. More common is the use of prisoner labor in war-related industries, but this is distinct from actual military conscription and is considered instead under the hazardous labor category where applicable. There have also been several instances where captors may seek to encourage certain prisoner groups to volunteer and join their side's armed forces, but this is allowed under international law and thus not considered a crime alongside forced conscription.

Table 9: Relative frequency of denial of legal rights across interstate wars

	Frequency	Percentage
Yes	133	66.50
No	67	33.50
Total	200	100

Table 10: Relative frequency of forced military conscription across interstate wars

	Frequency	Percentage
Yes	2	1.02
No	194	98.98
Total	196	100

Much more frequent, though still far from widespread, are abuses based on hazardous labor conditions, which are summarized in Table 11. More than one quarter of all observations involve instances where labor conditions reached medium or high levels of abuse. Although this violation involves more problems with missing data, the general conditions for prisoner labor at least appear better than for living conditions more generally. This pattern may be accounted for in part by the necessity to provide better care to laborers if a captor wishes to fully exploit their potential. Nevertheless, there are several instances where captors sought to exploit prisoner labor to the greatest extent possible with little care for the wellbeing of their captives, such as the horrible conditions existing for prisoners working on railways, bridges, and other installations when under Japanese custody.⁷² In contrast, Table 12 shows that in over half of the cases, prisoners must cope with below par housing, nutrition, and medical resources, which greatly heightens their risk of dying from injuries, hunger, or communicable diseases. While many Ottoman prisoners were summarily executed by Bulgarian captors and their allies during the First Balkan War beginning in 1912, a

⁷² It is instructive that even in the case of Japan there could sometimes be some variation in the treatment of prisoner depending on the type of labor they performed or the particular camp in which they found themselves (Flower 1996:227). Though in all cases it should not be overlooked that the treatment of prisoners was deplorable and differences were more a matter of degree rather than of kind in the horrors captured combatants faced.

great number of others suffered a far worse death through malnutrition and ultimately starvation as they languished in scantily-equipped prison camps.⁷³ Although food and housing requirements are amongst the areas that receive the greatest attention under international humanitarian law, this has certainly not translated into more healthy and comfortable living conditions for the vast majority of prisoners.

Table 11: Relative frequency of hazardous labor across interstate wars

	Frequency	Percentage
High	9	7.50
Medium	25	20.83
Low	86	71.67
Total	120	100

Table 12: Relative frequency of poor living conditions across interstate wars

	Frequency	Percentage
High	29	16.29
Medium	64	35.96
Low	85	47.75
Total	178	100

The tables above detail the different levels of abuse across each of the component types of prisoner violations. I use the data from each component variable to construct the main summary indicator of combatant abuse. Table 13 below reports the relative frequency of cases across each of the low, medium, and high levels of overall combatant abuse.⁷⁴ Medium-level abuse is the modal category with 78 occurrences (37 percent of all cases), though both high and low levels of abuse are also common with 69 (33 percent) and 64 (30 percent) occurrences respectively.

⁷³ One of the more gruesome examples was the Bulgarian-controlled island of Toundja, where Turkish prisoners were reduced to stripping the bark off of trees for want of food. Not surprisingly, few survived their ordeal at the island prison (Carnegie Endowment 1993:112).

⁷⁴ There are also 26 cases of states deemed to be “not capable” and 21 cases for which data on combatant abuse could not yet be found. The totals for these two sets of cases are not included in the percentage figures reported in Table 13, but taken together “not capable” states and missing observations represent 10 percent and 8 percent of all cases respectively.

Almost one-third of the observations in the data set are thus associated with high levels of abuse, which shows that brutal treatment of captured prisoners is not an uncommon phenomenon when states choose to settle their differences by force. However, this can be contrasted by the almost equally common tendency for states to treat their captives in a decent manner. The distribution across the three categories indicates that no level of combatant abuse predominates. The relative frequency of each level demonstrates that substantial variation in the treatment of prisoners indeed exists across wars. The fate awaiting many soldiers who surrender themselves is oftentimes certainly harsh, but this must be considered alongside a large number of instances where the conduct of captor states toward their prisoners is much more encouraging.

Table 13: Relative frequency of combatant abuse across interstate wars

	Frequency	Percentage
High	69	32.70
Medium	78	36.97
Low	64	30.33
Total	211	100

In a similar manner to the previous tables, Table 13 only reports the frequency of each level of abuse across the entire time period under study, which totals more than one hundred years of warfare. Figure 2 below provides a better sense of possible trends in the various levels of combatant abuse over time. The lines show the percentage of combatant abuse at each given level over the course of separate twenty-year periods.⁷⁵ The final period from 1978 to 2003 includes the last 26 years of observations in the data set, since the time periods do not divide neatly into equal intervals. The figure shows some interesting overall trends. Low-level abuses are at

⁷⁵ If a war begins during one period, but continues into a subsequent period, observations for that war are reflected only in the earlier period during which the conflict began. This is to avoid double counting wars that happen to fall across two time periods.

their smallest relative frequency (21 percent) in the first period, 1898-1918, while high-level abuses reach their zenith during the same period (43 percent). The period includes World War I and the marked gap between low and high-level abuses suggests some support for the notion that these were indeed the bad old days typified by high levels of brutality both on and off the battlefield (Liddell Hart 1946:60-61).⁷⁶

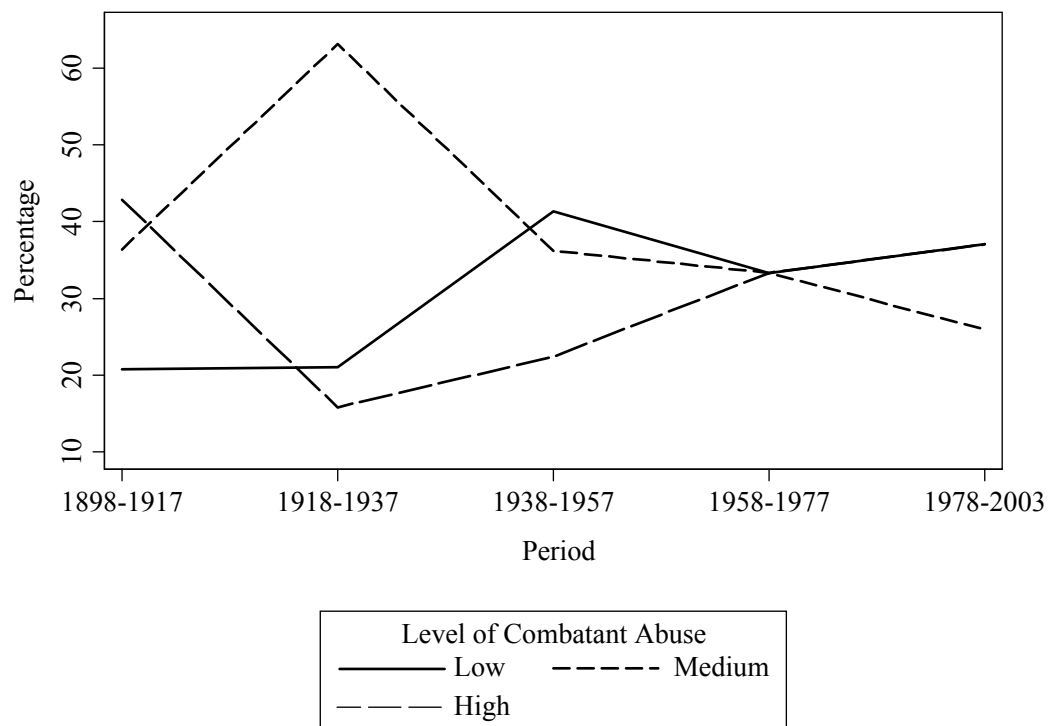


Figure 2: Relative frequency of levels of combatant abuse, 1898-2003

During the subsequent interwar period low-level abuse remained fairly constant, while higher levels of abuse dropped precipitously (16 percent). Mid-level violations, such as during the 1919 Hungarian-Allies War, were by far the most common category making up 63 percent of all forms of abuse. This trend toward the mean perhaps reflects a degree of war-weariness from the lengthy trench warfare of

⁷⁶ For a more moderate view on conduct during the Great War, see (Rachamimov 2002:67-69, 78-82).

the Great War, but also the relatively smaller scale of conflicts at this time compared to the adjoining periods.

The next period, 1938-1957, is the only time where lower forms of abuse predominate (41 percent), which is somewhat surprising given this period includes both World War II and the Korean War. World War II was certainly characterized by almost unprecedented levels of brutality on the Eastern Front, but in contrast the treatment of prisoners by all sides was fairly decent in the Western Theater of the war. The following period shows a general pattern of convergence in the relative frequency of each of the levels of abuse. From 1958-1977, is each level is responsible for around one-third of all abuses respectively. The final period from 1977-2003 points to a slightly polarizing trend as mid-level abuses decline to 26 percent, while lower and higher forms both increase to 37 percent of all cases. This suggests that while humane standards of care are becoming more common in the most recent period, brutal treatment in other instances is rising at the same rate.

Except for the interwar period, no level of abuse appears to overshadow the others. Focusing only on lower-level abuses shows some promise from a humanitarian point of view, since the relative frequency of these more benevolent cases of prisoner treatment increases, albeit haltingly, throughout the twentieth century. Counterbalancing this positive trend is a similar upward tendency for the highest forms of abuse, at least from 1918 onward. Taken together, the overall pattern suggests the conduct of warfare is unfortunately not becoming more humane over time as high levels of abuse persist and have actually continued to increase over the last half-century. This is sobering news for those policy makers and activists who hope states would have internalized prevailing international norms over time and correspondingly place a higher priority on respecting the health and wellbeing of those prisoners who fall into their hands.

Conclusion

This chapter introduced a new data set on combatant abuse, which covers the treatment of prisoners during interstate wars over the period from 1898 to 2003. I developed an operational measure for the key concept of combatant abuse, which relies on the treatment of prisoners across six different types of violations, which are aggregated to form an overall three-level categorical indicator dividing cases into either high, medium, or low levels of abuse. Investigating patterns within the component violations and summary indicator confirms many differences exist in the ways prisoners are treated across wars. The lives of captured combatants are not always condemned to a Hobbesian existence, but nor is their safety oftentimes guaranteed in any meaningful sense. The results indicate that there indeed exists substantial variation in the level of combatant abuse during interstate wars. Left untouched so far is what causes these differences in the treatment of prisoners. The next chapter takes up the issue of which factors lead prisoners to suffer more greatly under certain captors or wars than others. Returning to the main research question of this study, why are some prisoners horribly abused while others are treated relatively well?

CHAPTER 4

A QUANTITATIVE ANALYSIS OF THE CAUSES OF COMBATANT ABUSE

Introduction

In this chapter I move beyond identifying overall trends in the treatment of prisoners in order to examine in a more systematic manner the causes of combatant abuse during interstate wars. In particular, I seek to test the explanatory power of the nature of the belligerents and bloodshed framework. The nature of the belligerents argues that normative and institutional traits of democracies make them more likely to properly care for enemy combatants than their autocratic counterparts, though certain countervailing democratic institutional incentives also need to be kept in mind. The nature of the bloodshed further emphasizes the role of particular goals states may pursue through war, especially territorial annexation, as well as the severity of the fighting once the war has begun, on the likelihood that states will resort to combatant abuse.

The purpose of this chapter is to evaluate hypotheses derived from these two sets of factors, as well as several alternative explanations. First, I briefly review the theoretical motivation behind each of the explanatory variables, but focus more on measurement issues for the purposes of a large-n research design. The second and third sections center on the data analysis. I begin with some summary statistics to illustrate the initial relationships between combatant abuse and several of the independent variables. This is followed by an examination of potential confounding variables for regime type and the nature of bloodshed arguments before moving on to evaluating more comprehensive models of combatant abuse. The overall results strongly support the role of the nature of the belligerents and the bloodshed for understanding the causes of combatant abuse. Democratic belligerents are indeed found to be more likely to exhibit restraint when dealing with enemy combatants. On

the other hand, even when taking into account regime type, the severity and aims of the conflict heighten the resort to abuse against combatants, though with some caveats. In contrast to much of the historical literature, cultural differences do not appear to be a consistent determinant of the fate of prisoners, while many of the other factors operate in the expected direction. Of course, the quantitative analysis only provides one test of these explanations and many alternative factors may be worthy of further research. The fourth section then subjects the models to a series of specification and robustness checks. The fifth and final section summarizes the main findings and discusses how several of the results will be further examined using other types of evidence in the remaining chapters.

Independent Variables

The independent variables were selected to evaluate the main causes of combatant abuse proposed by the nature of the belligerents and bloodshed theoretical framework. The arguments underlying the hypotheses for the primary explanatory variables are only reviewed briefly, since they were covered in greater detail in Chapter 2. Variables for a number of other alternative explanations are also presented and discussed. The measures are drawn from a variety of sources and supplemented with original coding where appropriate.

Regime Type: Regime type may influence the treatment of combatants in a number of different ways. Democratic norms protecting individual rights or promoting nonviolence may make democracies more likely to treat enemy combatants in a humane manner. Normative pressures may be supplemented by institutional incentives which increase the sensitivity of democratic leaders to public concerns over retaliation and to the strategic benefits that can be gained through good conduct. On the other hand, pressures from the domestic public to win quickly may make democracies more likely to resort to any tactic that increases the chances to achieve victory, however

dirty. To evaluate these alternative views, “Democracy” codes whether or not a country has a democratic regime type at the beginning of the war. I follow the standard practice in many existing studies on regime type and conflict by using the Polity IV index (Marshall and Jaggers 2007). Polity’s autocracy index is subtracted from its democracy index to create a 21-point scale ranging from -10 for least democratic to +10 for most democratic. I then create a dummy variable that codes a state as a democracy if it receives a score of 7 or above on the Polity scale.

Several limitations in Polity have been noted by many scholars, such as coding issues in specific cases, inappropriate aggregation procedures, and the focus on particular institutional indicators when measuring the concept of democracy as a whole (Alvarez et al. 1996; Gleditsch and Ward 1997; Munck and Verkuilen 2002).⁷⁷ Oren, in particular, puts forward a challenging critique arguing in part that coding by Polity researchers, as well as many other scholars, is influenced by the foreign conduct of particular regimes, especially in relations with prominent democracies like the United States (Oren 1995:152-153). Oren’s charge of endogeneity in the coding of democracy has the potential to completely undermine the very validity of the Polity measure. If foreign policy shapes the democracy score assigned to a given country, then Polity is essentially already capturing and reflecting the very foreign conduct researchers are seeking to attribute to regime type. Several scholars have responded to

⁷⁷ Beyond these particular issues, there may be the added concern that the component dimensions underlying Polity might not be the most appropriate for evaluating the specific democracy argument of this study with regards to the treatment of prisoners. The Polity score is a composite index of five different dimensions: competitiveness of political participation, regulation of political participation, competitiveness of executive recruitment, openness of executive recruitment, and constraints on the chief executive (Marshall and Jaggers 2007:12-16). In terms of capturing the relative sensitivity of democratic leaders to public concerns over retaliation and potentially longer and bloodier wars resulting from combatant abuse, the index provides a reasonable measure linking the accountability of leaders to their publics. The normative argument in favor of democracies is less evident in the case of Polity. However, Doyle’s measure, which is discussed further below, is included as an alternative and more explicitly incorporates a normative component.

Oren's critique and challenged various aspects of the logic of his argument, as well as his use and interpretation of historical evidence (Maoz 1997:182-192; Ray 1998:31-33).

Even if Oren is indeed correct, his critique is more relevant for the democratic peace thesis rather than arguments here regarding the actual conduct of states during war. Oren basically asserts that researchers, in line with past historical figures like U.S. President Woodrow Wilson, tended to view enemies of the United States like Imperial Germany as autocratic, while allies or friendly states were more likely to be treated as democratic (Oren 1995:153-157). In this light, the democratic peace thesis, which posits that democracies do not fight one another but are just as likely to fight other regime types, is simply a function of coding real and likely enemies of the United States and other democracies as nondemocratic irrespective of their actual domestic regime traits. The potential danger that Polity is endogenous to the conflict propensity between different pairs of states does not appear to present similar problems when looking at the actual conduct of states during war. The quantitative study of the conduct war is a relatively recent research program compared to the democratic peace, so it is perhaps not surprising that Polity or other democracy researchers did not have concerns over war conduct in mind when constructing their indices. Polity is thus not likely to suffer from a similar worry of endogeneity, which in this case would suggest that states that treat their prisoners humanely are more likely to be viewed as democratic by researchers.

Furthermore, while Oren was responding in part to the near consensus that has developed in favor of the democratic peace thesis, there is far from a similar scholarly agreement in the case of the conduct of democracies once war breaks out. For instance, in the area of civilian victimization, several scholars find that democracy either has no effect or actually *increases* the likelihood a state will target civilians

(Downes 2006:174-176; Valentino et al. 2006:368-369; Downes 2007:889). There should in turn be less concern that relying on Polity will inherently predispose toward finding that democracies are less likely to abuse enemy combatants. If anything, the most recent research from the civilian realm would suggest that Polity provides a relatively tough test for the notion that democracies behave more humanely during war.

Despite the concerns of Oren and many other scholars, Polity still remains useful for a number of reasons. The wide time-span from 1800 to the near-present provides a source of cross-national time-series data necessary for the sample of wars and countries considered in this project. Polity has also been the main measure used in most studies of domestic politics and conflict (e.g. Goemans 2000; Schultz 2001; Reiter and Stam 2002). In the aim of providing as close a comparison as possible to existing research, Polity seems to be an appropriate measure to employ for the purposes of this study.

As a robustness check I follow the lead of other recent scholars and include Doyle's coding scheme for liberal democracies as an alternative measure, as well as several other measures (Downes 2008:58-59). In contrast to Polity's greater focus on institutional characteristics, Doyle more explicitly incorporates normative concerns into his definition. While Doyle's criteria for democracy includes a representative government that is competitively elected, he also includes protections of political and civil rights of citizens, private property, and a free market economy (Doyle 1997:264 fn.261). In practice, the two measures are closely related and reflect the view that institutions and norms are often complementary and mutually supportive.⁷⁸ Despite

⁷⁸ In the observations from the combatant abuse data set the two measures have a correlation of 0.87.

some of their similarities, using alternative measures for the same variables provides added confidence regarding any potential regime type findings.

The following set of variables attempt to capture various elements of the nature of the bloodshed during war. Wars where the fighting becomes more severe may be more likely to lead to abuses against enemy combatants in an effort to coerce the opponent or simply reduce a warring state's own costs. While the effect of certain objectives such as regime change may be ambivalent, others like territorial annexation are more likely to lead to combatant abuse in an effort to remove any subsequent threat within the newly conquered areas. Several measures for the severity of the fighting and war aims have already been created by other scholars researching the conduct of states during war, especially in studies on the treatment of civilians. In order to provide a comparison to existing research, I primarily rely on measures from this literature below.

War of attrition: A war of attrition is defined as a conflict that becomes bogged down into static or protracted fighting with little movement, which in turn tends to become extremely costly. The trench warfare that typified much of the Western Front during World War I falls firmly into this category. Following Downes, counterinsurgency warfare is included as part of this measure given its slow, arduous, and extended nature (Downes 2008:60). A dummy variable is created that takes on a value of 1 for a war of attrition and 0 otherwise. There exists a potential problem of endogeneity, since high levels of combatant abuse may make enemy forces resist much more energetically rather than surrender and a war of attrition may in turn likely ensue. As I discuss further below in subsequent robustness checks to the main analysis, endogeneity does not appear to pose a serious problem for assessing the overall effect of attrition on combatant abuse.

War duration: Duration is measured as the length of the war in days, which is then logged to reduce the skewness of the distribution in the variable.

Battle deaths: The number of deaths suffered in combat is often one of the starkest measures of a war's severity. However, any measure of battle deaths must be careful not to include prisoner killings or deaths in camps as part of the figure, since this would effectively include the dependent variable of interest, combatant abuse, on the right-hand side of the equation. Widely used data sets, such as the Correlates of War (COW), are ambiguous on this issue, since it is not always clear which types of fatalities are counted as part of the total number of battle deaths (Sarkees 2000).⁷⁹ As an alternative, I rely on battle deaths data from the Uppsala/PRIO armed conflict data set.⁸⁰ While the measure also includes civilian deaths directly connected to military operations, it explicitly excludes one-sided violence such as prisoner killings (Lacina and Gleditsch 2005:150). The inclusion of civilian deaths incorporates an added dimension not found in the COW source, but the authors argue this offers "the best measure of the scale, scope, and nature of the military engagement that has taken place" (Lacina and Gleditsch 2005:148). Nevertheless, as a robustness check, I also use the COW data as an alternative measure. The variable "Battle deaths per 1,000 population" divides the number of battle deaths by the belligerent's prewar population in thousands.⁸¹

⁷⁹ This was also confirmed in personal correspondence with the current hosts for the data set (Sarkees and Wayman 2008).

⁸⁰ The standard PRIO Battle Deaths Dataset only covers the period 1946-2005 (v2.0), but the investigators also compiled a separate version of the data set that includes COW interstate wars as well. I rely on both versions of the PRIO data for the values of battle deaths used in the final analysis. Full details of both versions of the PRIO data can be found here, <http://www.prio.no/CSCW/Datasets/Armed-Conflict/Battle-Deaths/The-Battle-Deaths-Dataset-version-20/>.

⁸¹ Population figures were taken from the COW National Military Capabilities data set v3.02 (Singer et al. 1972). Strictly speaking, "Battle death per 1,000 population" is a measure of a war's "intensity" in the language of Small and Singer (1982:76). However, this seems a better indicator of the relative costs inflicted on a belligerent than Small and Singer's "severity" measure, which simply takes the absolute number of battle deaths suffered by a belligerent during the war. All else being equal, 10,000 deaths

Expansive war aims: A dummy variable is created where a belligerent is considered to have expansive war aims if it seeks either regime change or unconditional surrender from the opponent, and 0 otherwise (Downes 2008:60-61). Examples here include the U.S. aim to topple Saddam Hussein during the 2003 Second Gulf War, or the U.S. demand for the unconditional surrender of Japanese armed forces on the Pacific Front during World War II.

Territorial annexation: Based on other research and supplemented by my own coding, a dummy variable is created that takes a value of 1 for states whose aims included conquering territory from the adversary, and 0 otherwise (Valentino et al. 2006:362-363; Downes 2008:61). Examples include German ambitions in acquiring Soviet territory during World War II, as well as Armenia and Azerbaijan's 1992-1994 war over the disputed Nagorno-Karabakh region. This main variable for territorial annexation shares an advantage with several previous variables of providing a direct comparison to existing research on the conduct of states during war.

As a robustness check, I also consider the possibility that different types of wars of territorial annexation may have varying effects on the likelihood states will resort to higher levels of abuse. To test for this possibility, I divide cases from the main territorial annexation measure into two separate dichotomous variables. The first concerns revisionist wars of territorial re-absorption, such as Soviet aspirations over Polish territory during the early stages of World War II. The second variable involves more traditional wars of conquest, such as French designs on parts of former lands of the Ottoman Empire during the 1919-1921 Franco-Turkish War.

would probably have a much larger impact on a country of 1 million people than on a country of 100 million. Nevertheless, as a further robustness check I also included a variable for the absolute total of battle deaths a belligerent suffered in the given war for both the Uppsala/PRIO and COW data, which is then logged to correct for the skewness in the distribution.

The next variable seeks to tap into the last main explanation examined in the earlier theory chapter, which concerns cultural differences and the treatment of combatants.

Cultural Differences: Historians have frequently cited cultural differences as a key component in the process of dehumanizing an opponent, which often culminates in the abuse of prisoners (Beaumont 1996:280). As Downes notes, an ideal measure would examine popular and elite perceptions of the enemy and any resulting effects on state conduct during war on a case-by-case basis (Downes 2008:59). Unfortunately, this approach is not feasible in a large-n setting and raises the risk of endogeneity, since rising fears or hatreds of the enemy may be more a function of the aims and progress of the war rather than any innate prejudices between the two societies. As a more modest measure, I consider ex ante religious differences in a similar manner to several other studies (Downes 2006:170-171; Valentino et al. 2006:361). Coding is based on Henderson and Tucker's widely-used measure for Samuel Huntington's concept of civilization (Huntington 1993a; Henderson and Tucker 2001).⁸² While somewhat crude, this framework captures key cleavages between different societies: Western, Latin American, Hindu, Orthodox, Islamic, Africa, Sinic, Buddhist, Japanese, and a residual Other category. Using these classifications, a dummy variable "Cultural differences" is created that equals 1 if belligerents are from different civilizations, or both are coded as Other, and 0 if they are from the same civilization.

The remainder of this section presents several other factors thought to influence the conduct of states during war. They are then incorporated at various stages into the overall analysis where appropriate.

⁸² As a robustness check, Russett et al.'s alternate coding scheme for Huntington's framework was also used (Russett et al. 2000). The results are largely the same when using either measure of cultural differences.

Reciprocity: As numerous historical episodes have demonstrated, states are often likely to retaliate and reply in kind to prisoner abuses committed by the other side (MacKenzie 1994). In an attempt to begin to capture this dynamic, a dummy variable is created that takes on a value of 1 if a state's soldiers become victims of abuse by the opposing state, and 0 otherwise.⁸³ Given the potential back-and-forth nature of reciprocal abuses, a particular concern is that the variable will bias the results by effectively including part of the dependent variable, combatant abuse, in the reciprocity measure. A state's behavior toward a target's soldiers may in turn influence the target's treatment of the initial offender's soldiers, which implies that the reciprocity variable may be measuring a given state's behavior on both sides of the equation. While this danger of endogeneity should induce some caution when interpreting findings related to reciprocity, it does not appear to produce any significant bias as will be discussed further in the results section below.

This measure for reciprocity simply assesses whether abuses by one side increase the probability the other side will also commit abuse. In contrast, Morrow seeks to examine various types of reciprocity effects when conditioned by other variables through the use of a wide range of interaction effects.⁸⁴ Including interaction effects to the same extent in the data set below unfortunately introduces a large amount of multicollinearity, which can bias coefficient estimates and artificially inflate standard errors. Also, introducing interaction effects can make it more difficult

⁸³ This operationalization was chosen to provide the most straightforward measure of abuses by the adversary. Using a single categorical measure capturing all three levels of abuse by the opponent, or creating separate dichotomous measures for each level of opponent abuse, does not substantially change the results.

⁸⁴ The main models simultaneously estimate five separate interaction effects involving reciprocity (Morrow 2007:565, Table 561).

to interpret the meaning of lower-order terms.⁸⁵ For the purposes of this chapter, I therefore limit the analysis to examining the more straightforward direct effect of reciprocity on state behavior. I leave the examination of some of the more nuanced dynamics of reciprocity to later chapters, in particular Chapter 5 which delves more deeply into the role of democracy.

Deterrence: Whereas the reciprocity measure captures the effect of the opponent's actual conduct toward prisoners, the deterrence variable assesses the prior set of expectations among belligerents given whether or not each side is holding enemy combatants. If both states are capable captors, then in theory each may be deterred from harming the adversary's combatants out of fear their opponent will retaliate in kind. Prisoners in many ways become akin to the common usage of hostages during earlier periods of warfare in order to ensure each side would abide by agreed upon rules of war (Elliott 1995:243). "Deterrence" is a dummy variable that takes on a value of 1 if both states are deemed capable captors and 0 otherwise. Germany-Belgium dyads during World War II would be coded as 0, since Belgium was not considered a capable captor, while Germany-Britain dyads during the same war would be coded 1 since both held substantial numbers of prisoners from the opposing side.

International Law: A large body of international humanitarian law began to be codified beginning with the 1899 Hague Conventions and was greatly extended thereafter. In order to test for the effects of unilateral ratification, the first variable "Treaty ratification" measures whether or not a state has ratified the relevant treaty respecting the rights of prisoners before the war commenced. The second variable

⁸⁵ The overall interpretation of the model is even more problematic and dependent on tenuous assumptions when some of these lower-order terms are excluded. For a more detailed discussion of these issues, see Braumoeller (2004:809-811).

“Joint treaty ratification” measures whether or not both members of the directed-dyad were party to the treaty before the war began to test the effect of mutual treaty ratification. Since “Joint treaty ratification” is in essence an interaction effect between the state’s own ratification of the agreement and that of its opponent, a separate unilateral variable “Treaty ratification (opponent)” is also included.

The relevant treaty is based on the most recent international agreement in force at the time the war began. The relevant treaty and time periods are defined as follows: from 1899-1907 the 1899 Hague Convention; from 1907-1929 either the 1899 or the 1907 Hague Convention; from 1929-1949 the 1929 Geneva Convention; and from 1949 to the present the 1949 Third Geneva Convention.⁸⁶ The choice of treaty and time periods departs slightly from several previous studies, which use the most recent treaty starting in the year it was negotiated (Valentino et al. 2006:360-361; Morrow 2007:564). In years in which a new treaty came into existence, I only code the new treaty as relevant if the war started after the date the treaty opened for ratification. For instance, the Fourth Central American War began in February of 1907, but the 1907 Hague Convention did not open for ratification until October of the same year. Also, international law scholars generally agree that the 1907 Hague Convention was only a slight revision of Hague 1899 with little substantive changes in the obligations of states regarding the basic rights of prisoners (Roberts 1994:122). States that chose not to join Hague 1907 nevertheless remained formally bound by similar obligations under Hague 1899, so to code them as 0 for the unilateral ratification variable in wars after 1907 overlooks real and existing treaty obligations on their part.⁸⁷

⁸⁶ An additional version of this variable includes the 1977 Additional Protocol I as the most relevant treaty from 1977 to the present rather than the 1949 Geneva Convention. Results remain substantially the same when using this alternate measure.

⁸⁷ Another version of this variable was generated using the coding strategy for the 1899 and 1907 Hague Conventions employed by Morrow 2007 and Valentino et al 2006. Results remained substantially the same.

My aims in examining international law are relatively modest compared to Morrow's in depth study of various facets of treaty obligations. In a similar manner, Morrow relies on interaction effects between international treaties and a number of other variables, but the same caveats apply as discussed earlier for the case of the reciprocity measure.

International Norms: The principles embodied in legally codified treaties may still have a broader international normative effect beyond the formal state parties. Higher levels of support for the rules and principles embodied in existing international treaties may influence the preferences and behavior of all states, whether or not they actually ratified the relevant agreement (Finnemore and Sikkink 1998:900-901). The 1949 Geneva Conventions, in particular, are viewed as a watershed in the protection accorded to a wide range of victims from war, including prisoners (Best 1994:80).⁸⁸ To test for the existence of a post-Geneva norm, I create a variable that measures the number of states by year that had ratified the Geneva Conventions as a proportion of the total number of states in the international system. The variable necessarily takes on a value of 0 for all years prior to the creation of the Convention. Although the measure is somewhat crude, it follows conventional practice by other scholars examining the effect of norms on state behavior in related areas, such as monetary policy and human rights (e.g. Simmons 2000; Goodliffe and Hawkins 2006). The variable is also lagged by one year to avoid issues of endogeneity. The 1977 Additional Protocol I to the Geneva Conventions widened the definition of legitimate types of combatants and further extended protections accorded to prisoners. The International Committee of the Red Cross (ICRC), as well as many scholars, contend that many of the rules embodied

⁸⁸ Though Best is also careful to point out that a great deal was left out of the Conventions during their negotiation, which had subsequent implications for the strength and scope of protections for war victims (1994:99).

in the Protocol have garnered the status of customary international law (Henckaerts and Doswald-Beck 2005:384-395).⁸⁹ In a similar manner to the 1949 measure, a variable is created according to the same procedures to reflect any emerging 1977 Protocol-based norm.⁹⁰

Relative material capabilities: States with larger material capabilities may have a greater ability to abuse enemy combatants. On the other hand, more powerful states may have less need to mistreat combatants given their military superiority. This variable is defined as the percentage of total capabilities of all belligerents controlled by the relevant state. Capabilities data is based on the COW's composite index of national capability (CINC), which is an aggregate measure of a state's energy consumption, iron and steel production, military expenditure, military personnel, total population, and urban population (Singer et al. 1972). Each state's capabilities were also corrected for distance to the main theater of combat using Bueno de Mesquita's loss function to reflect a decline in capabilities as distance from the home front increases (Bueno de Mesquita 1981:103-108).⁹¹ States may also calculate their prospective need for combatant abuse based on the capabilities contributed by allies fighting at their side during war. A separate measure is included for allied contributions, which is expressed as the percentage of total capabilities of a state's allies in the war corrected for distance. Table 14 below summarizes some of the main statistics for the variables to be used in the quantitative analysis that follows.⁹²

⁸⁹ However, it should be noted that the findings of the ICRC, and consequently the customary nature of many of the laws of war, remain hotly contested. For instance, see (Nicholls 2006; Wilmschurst and Breau 2007).

⁹⁰ As an alternative, using a simple dummy variable, which refers to war occurring before and after either 1949 or 1977 respectively, does not substantially alter the results.

⁹¹ Measures for distances to the battle front were based on the work of Reiter and Stam and supplemented by direct-line distance data from Fitzpatrick and Modlin (Fitzpatrick and Modlin 1986; Reiter and Stam 1998).

⁹² Since the analysis focuses on capable captor states, only summary values for these observations are reported.

Table 14: Summary of variables to be used in the statistical analysis

Variable	Number of Observations	Mean	Std. Dev.	Min	Max
Combatant abuse	211	1.024	0.795	0	2
Democracy (Polity)	211	0.261	0.440	0	1
Democracy (Doyle)	211	0.270	0.445	0	1
War of attrition	211	0.412	0.493	0	1
Duration (logged)	211	5.163	1.802	0.693	8.226
Battle deaths per 1,000 population	205	6.255	12.719	3.59×10^{-6}	68.599
Expansive war aims	211	0.351	0.478	0	1
Territorial annexation	211	0.180	0.385	0	1
Cultural difference	211	0.711	0.454	0	1
State's combatants abused by opponent	210	0.648	0.479	0	1
Deterrence	210	0.905	0.294	0	1
Treaty ratification	211	0.735	0.443	0	1
Treaty ratification (opponent)	211	0.749	0.435	0	1
Joint treaty ratification	211	0.678	0.468	0	1
1949 norms	211	0.262	0.408	0	1
1977 norms	211	0.059	0.192	0	0.833
Relative capabilities	211	0.338	0.282	0.004	0.988
Allied contribution	211	0.175	0.262	0	0.978

Summary Statistics and Preliminary Findings

This section provides an initial investigation of the data on their own terms without immediately turning to multiple control variables. Combatant abuse is a three-level ordinal measure and many of the main explanatory variables of interest are dichotomous. Because of the nature of both sets of variables, I first choose to evaluate hypothesized relationships through figures reporting a straightforward series cross-tabulations, which has been recommended as “the way to start any analysis” (Achen 2002:446).⁹³

⁹³ Achen also suggests using simple plots, but these are generally more useful for continuous variables. I choose to rely on cross-tabulations, since this practice can provide a decent initial idea of any relationships between variables of interest.

The following figures describe the results from cross-tabulations between the outcome of interest, combatant abuse, and several key explanatory variables in turn: democracy, war of attrition, expansive war aims, territorial annexation, and cultural differences. The vertical axis represents the relative frequency of cases for both values of the given explanatory variable (e.g. democracy-nondemocracy). The horizontal axis arrays these frequencies for each level of combatant abuse. The distribution of cases across the three levels of combatant abuse should give a good initial sense of whether or not any bivariate association exists between the variables. Kendall's Tau-b statistic and its significance level are also reported to provide a preliminary statistical test of the relationship between each set of variables.⁹⁴

Figure 3 below shows a strong negative relationship between democracy and combatant abuse. In absolute terms, there are more cases for nondemocracies than democracies at all levels of abuse, but some interesting patterns are evident when looking at their relative propensities to commit abuses. While there is no discernable difference between democracies and nondemocracies in the incidence of medium levels of combatant abuse, regime type has much more of an influence at lower and higher ends of abuse. 24 percent of democracies commit high levels of abuse during war compared to 36 for nondemocracies, whereas 40 percent of democracies commit little to no abuse compared to 27 percent for their counterparts. The difference in regime type is statistically significant at traditional statistical thresholds and indicates that democracy may have a pronounced dampening effect on combatant abuse. This initial finding is particularly intriguing since as noted earlier it departs from many

⁹⁴ The Pearson Chi² statistic is more commonly used for cross-tabulations but is less appropriate when one or more of the variables is ordinal, such as combatant abuse in this case, since it does not take into account the ordered nature of the data (Agresti 2007:41).

recent studies in the related area of civilian victimization, which find democracy either has no impact or actually increases the likelihood that civilians will be targeted.

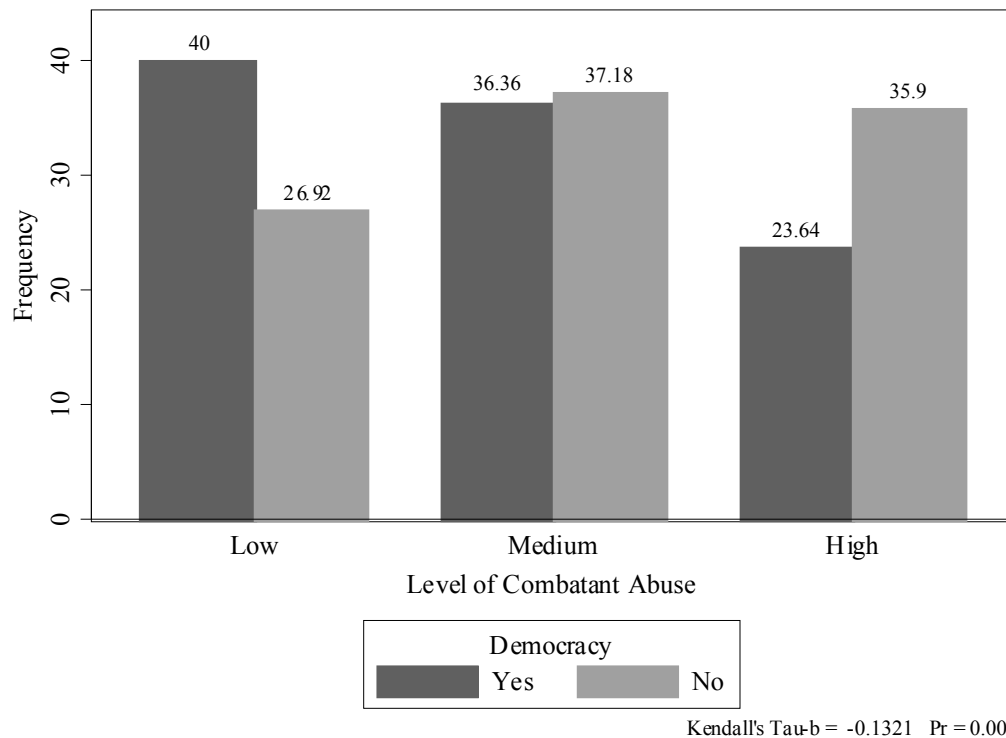


Figure 3: Relationship between democracy and combatant abuse

The next three figures examine various elements of the nature of bloodshed during conflict. As expected, Figure 4 shows a strong relationship between wars of attrition and combatant abuse. More than half of all wars of attrition ended up with high levels of combatant abuse compared to only 20 percent for more definitive conflicts. At the other end of violence against prisoners, belligerents in a war of attrition were about a third less likely to limit themselves to lower forms of abuse against their adversaries than in other types of wars. The relationship is also statistically significant, which lends further support to the view that wars of attrition create powerful pressures for belligerents to mistreat enemy combatants.

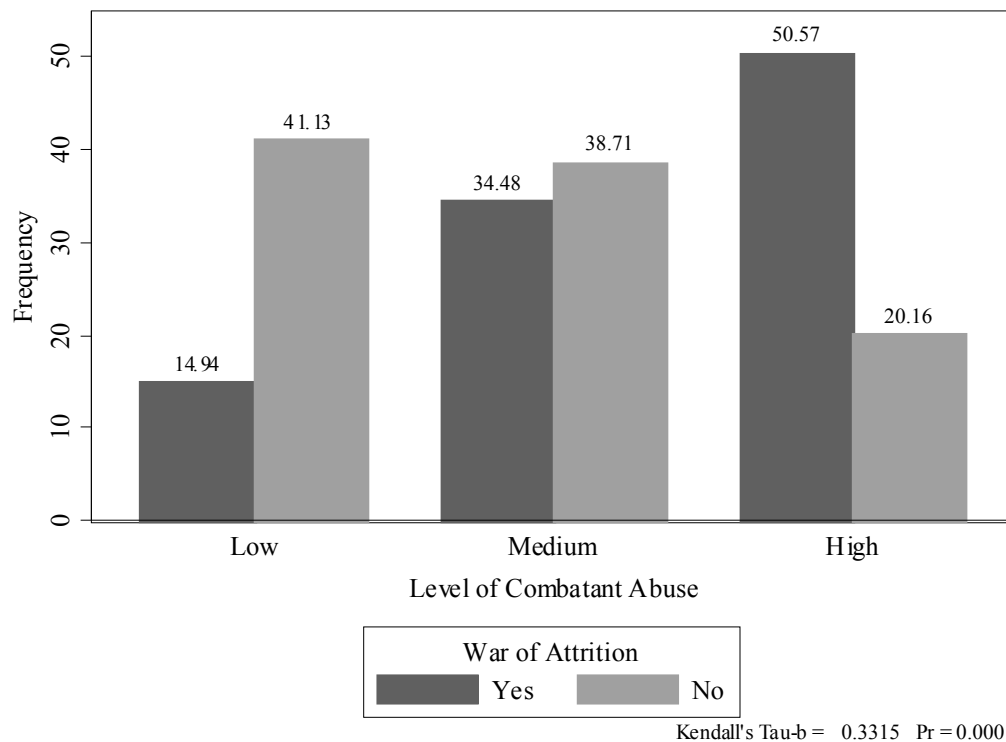


Figure 4: Relationship between war of attrition and combatant abuse

Shifting to the actual objectives states seek to achieve through war, Figure 5 below indicates that wars involving expansionist aims also have a positive relationship to combatant abuse, but this relationship is much weaker than for wars of attrition ($p = 0.222$). This could reflect competing incentives within belligerents pursuing objectives like regime change or unconditional surrender, since combatant abuse may have counteracting effects in attaining these goals as hypothesized in the theory section.

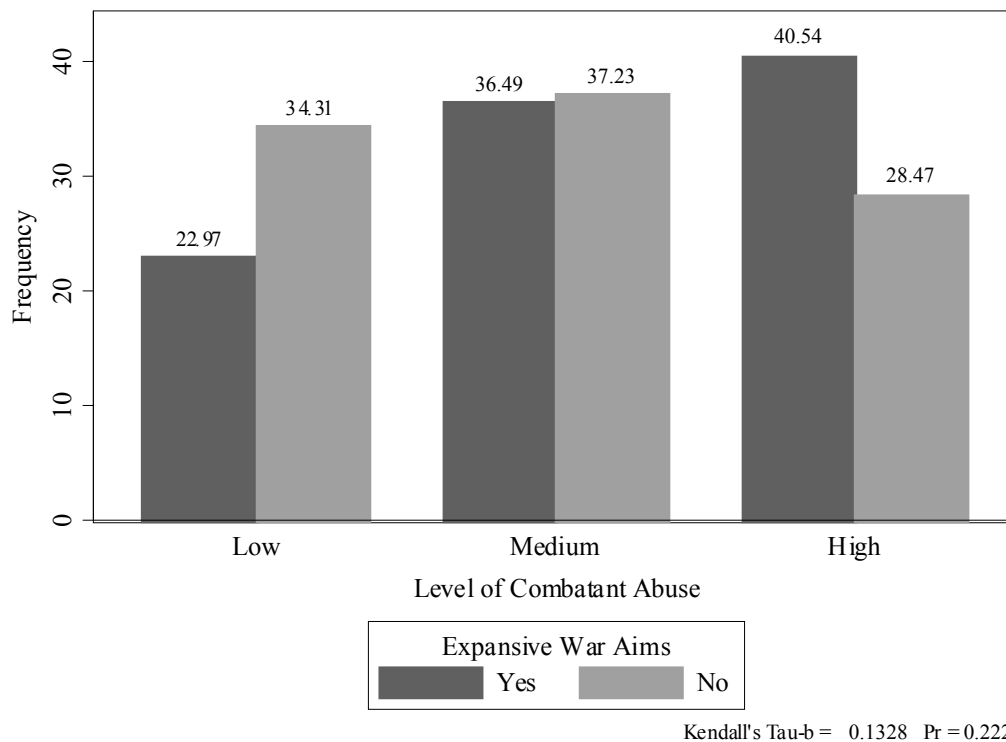


Figure 5: Relationship between expansive war aims and combatant abuse

The results are not nearly so ambivalent in the case of territorial annexation reported in Figure 6 below. Of all the variables examined so far, annexation has the strongest impact on combatant abuse both substantively and statistically. More than two-thirds of all belligerents seeking to conquer territory from their adversary are likely to commit high levels of combatant abuse. In only one case in the data set is territorial annexation associated with low levels of abuse.⁹⁵ The results also do not change substantially when disaggregating the annexation variable into revisionist wars of re-absorption versus more general wars of conquest.⁹⁶ Overall, the preliminary results from Figures 4 through 6 seem to suggest the nature of the bloodshed has a strong impact on the level of abuse committed by warring states against enemy combatants.

⁹⁵ This was Pakistan during the 1965 Second Kashmir War with India.

⁹⁶ The relationship with regards to combatant abuse is more pronounced in the case of wars of re-absorption, but remains significant for both categories.

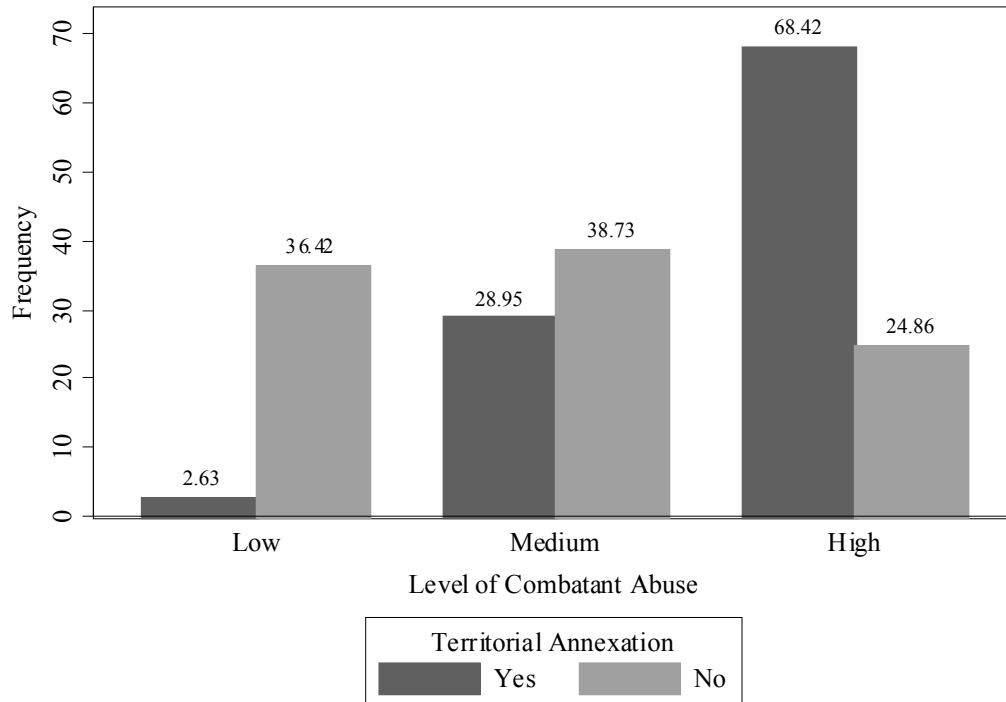


Figure 6: Relationship between territorial annexation and combatant abuse

Finally, Figure 7 provides an initial investigation of the relationship between cultural differences and combatant abuse. The results are suggestive that cultural differences are associated with higher levels of abuse, though they fall somewhat short of standard levels of significance. Belligerents coming from different civilizations are about 60 percent more likely to commit high levels of abuse than those from the same cultural background. This result also appears at first to differ from the related civilian literature where cultural differences are found to have little to no effect on state conduct during war (Downes 2006:174; Valentino et al. 2006:369-370). The flipside to cultural differences acting as an enabler of abuse is that cultural similarity might ironically operate as a restraint with culturally similar belligerents taking the welfare of their adversary's soldiers into greater account. This would seem to expand the boundaries of those arguing that during war states devolve toward a form of "nationalist utilitarianism," where the welfare of the state's own soldiers and citizens

is placed high above those from other states, irrespective of the cultural affinity to the belligerent in question (Thomas 2001:184-186; Downes 2004:61-63).

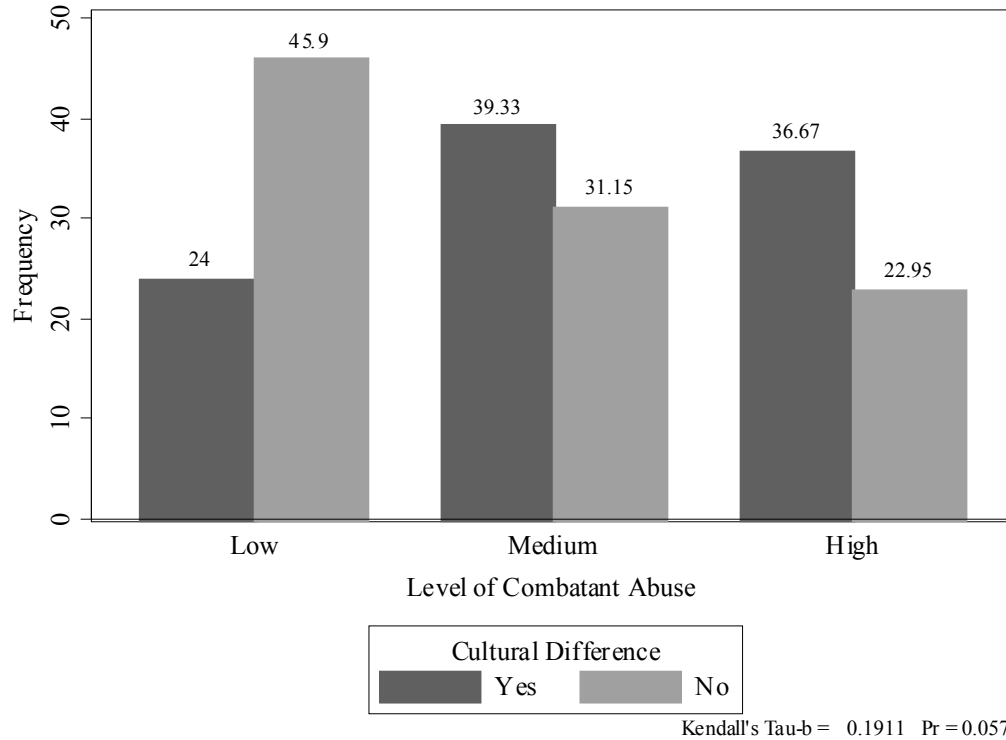


Figure 7: Relationship between cultural difference and combatant abuse

The figures above present in a fairly clear manner the relative frequency of cases across different values of several explanatory variables and combatant abuse. Taken together, they provide preliminary support for the effects of regime type, the nature of the bloodshed, and cultural differences. Several caveats should be noted before proceeding to the next section. The cross-tabulations assumed observations are independent, which is unlikely since the conduct of states is probably influenced in part by the behavior of their adversaries. In multi-actor wars many belligerents are also measured multiple times to reflect their conduct toward several opponents. Additionally, the preliminary analysis examined each explanatory variable in isolation, while the effects of certain variables could change once other factors are taken into account in more comprehensive statistical models of combatant abuse.

Regression Analysis and Results

The preliminary analysis above took the simple approach of focusing on one variable at a time, but going to the opposite extreme of throwing all variables together and seeing what results come out presents its own set of dangers. “Garbage can” or “kitchen sink” models are common metaphors for the widespread practice of including as many variables as possible in a single regression equation (Berk 2004:126; Achen 2005:329). Recent scholarship has highlighted several problems with this approach. First, models with a host of independent variables are often difficult to interpret in any meaningful manner and are impossible to visualize given the resulting high-dimensional explanatory spaces (Achen 2002:443-446). Second, such models often obscure key differences between independent variables that may have serious implications for the results.⁹⁷ Third and perhaps of most immediate importance, estimates for coefficients and significance levels in models involving a large number of independent variables can be extremely fragile (Berk 2004:126). Slight alterations in which variables are included, or how they are defined, can lead to drastic changes in results across models. Adding more variables in an attempt to reduce omitted variable bias only makes sense under extremely restrictive conditions, and can just as often worsen rather than improve the problem (Clarke 2005:348).

In response to these and other concerns, several scholars have suggested various guidelines for dramatically reducing the number of independent variables in any single model. One of the most well-known is the “rule of three,” where a model should include no more than three independent variables (Achen 2002:446). Others have countered that such an austere approach would limit scholarly research to

⁹⁷ For instance, Ray distinguishes between confounding, intervening, and competing variables, which each have different implications for model building, testing, and interpretation (2003:13).

“islands of theory” focusing on isolated handfuls of variables with little sense of their relative effects on outcomes of interest (Oneal and Russett 2005:295).⁹⁸

I propose taking a middle approach closer to those seeking to incorporate the general spirit of caution advocated by critics of garbage can models. Rather than report the “best” model that might happen to support the desired hypotheses, a form of sensitivity analysis can be conducted that evaluates the range of estimates for parameters of interest under different model specifications (Kadera and Mitchell 2005:323).⁹⁹ If estimates and their significance remain resilient across a variety of specifications, then this should provide greater confidence that an effect for a given variable indeed exists. In all cases the general rule remains that model selection should be guided by theory concerning the central outcome to be investigated. As one methodologist asserted, “all models are wrong,” but this does not mean that regression models cannot be useful if developed in a careful manner and with some humility to the challenges posed.¹⁰⁰ It is to this endeavor that I now turn for the rest of this chapter.

Across all of the models reported below, the dependent variable “combatant abuse” is ordinal. Using ordinary least squares (OLS) would potentially bias the results, since OLS assumes intervals between neighboring categories in the ordinal variable are equal (Long 1997:115). A more modest assumption for the three levels of

⁹⁸ For instance, Oneal and Russett agree that Ray’s rule to never to control for intervening variables in a model is useful for inducing greater care in variable selection (Ray 2003:4-6). However, they argue that rigid adherence to this rule would overlook the utility of including intervening variables as a way to clarify causal relationships between the key explanatory variable of interest, the intervening variable(s), and outcomes. For instance, while they accept that alliances may be an intervening variable between democracy and conflict, they argue that including both terms allowed them to show alliances were not driving the finding that democracy reduces the probability of conflict and in fact that alliances had little effect overall (Oneal and Russett 2005:294).

⁹⁹ As the authors remark, “Ray’s teaching is properly understood as an exhortation for scholars to more carefully consider the theoretical role of each control variable and its proper treatment in statistical models, not as an edict banning the use of control variables” (Kadera and Mitchell 2005:324).

¹⁰⁰ George E.P. Box, quoted in Berk (2004:126).

combatant abuse is that they can be ranked from lowest to highest, but the distance between successive categories of abuse may not necessarily be the same. A more appropriate model for dependent variables based on this type of structure is ordered logit. Standard errors for the coefficients are clustered by war to take into account that observations within a given war may not be independent.

Heeding the advice to carefully build models from the bottom up, Table 15 reports a series of regressions including each of the main explanatory variables of interest, as well as whether the belligerent's soldiers were abused by the adversary. Reciprocity is included as a baseline variable because past empirical studies on state conduct during war have found the opponent's behavior is a necessary component for understanding a belligerent's decision making calculus. (Morrow 2007:570; Downes 2008:66). Formal work of varying rigor has also confirmed the need to consider reciprocity when investigating the conduct of war, which is one of Achen's criteria for including additional variables in a statistical model (Achen 2002:437).¹⁰¹ As is evident from all of the models, reciprocity strongly influences a belligerent's treatment of enemy combatants. Cases where the adversary commits combatant abuse are significantly more likely to be associated with abuse by the captor state.¹⁰²

¹⁰¹ Examples include (Axelrod 1984:73-87; Ferguson 2004; Dollery and Parsons 2007). Reiter and Stam provide an exception to the logic of reciprocity in wartime when looking at the related issue of the individual soldier's decision to surrender (Reiter and Stam 1997:7-14). However, their model is a single-shot game rather than the repeated games approach employed by the other authors cited, where the latter models probably more closely represent the general logic of combat.

¹⁰² As an alternative measure for reciprocity, I included two dummy variables for medium and high-level abuses by the adversary respectively. Results for the other explanatory variables generally remain the same. Not surprisingly, the coefficient for high levels of abuse by the adversary is somewhat larger than the medium-level coefficient. This follows intuitively that higher levels of abuse by the opponent are correspondingly more likely to be associated with higher levels of abuse by the belligerent.

Table 15: Ordered logit analysis of combatant abuse (main explanatory variables and reciprocity)

	(1)	(2)	(3)	(4)	(5)
Democracy	-0.968* (0.464)				
War of attrition		0.958** (0.335)			
Expansive war aims			0.145 (0.387)		
Territorial annexation				1.599** (0.526)	
Cultural difference					0.374 (0.327)
State's combatants abused by opponent	3.400** (0.601)	3.114** (0.613)	3.258** (0.628)	3.100** (0.610)	3.222** (0.613)
First cutpoint (τ_1)	0.772* (0.375)	1.207** (0.359)	1.007** (0.333)	1.043** (0.335)	1.199** (0.401)
Second cutpoint (τ_2)	3.261** (0.634)	3.711** (0.655)	3.420** (0.615)	3.581** (0.623)	3.621** (0.644)
Observations	210	210	210	210	210
Log likelihood	-174.6	-173.6	-178.9	-170.4	-178.3
Wald Chi2	39.46	30.39	30.64	41.43	29.61
Pseudo-R2	0.240	0.245	0.222	0.259	0.224

Robust standard errors in parentheses (clustered by war)

** p<0.01, * p<0.05, + p<0.1

Turning to the main explanatory factors reveals some interesting findings. As in the simple cross-tabulation, democracy restrains the probability of harming combatants and is significant at conventional thresholds. Conflicts that turn into wars of attrition or involve the pursuit of territorial annexation, on the other hand, are much more likely to result in higher levels of harm against combatants.¹⁰³ The findings for the remaining two variables are more mixed. Expansionist war aims are positively

¹⁰³ The results generally continue to hold when the territorial annexation variable is disaggregated into separate wars of re-absorption versus wars of conquest categories. It should be noted that in some later specifications the statistical significance of the wars of conquest coefficient sometimes becomes attenuated, though in all cases both variables remain in the expected direction of heightening the resort to combatant abuse.

associated with combatant abuse, but the variable is far from significant ($p = 0.707$). This is consistent with the notion that states seeking regime change or unconditional surrender might perceive no overwhelming benefit from resorting to combatant abuse compared to belligerents pursuing other objectives, such as territorial annexation. While cultural differences were positively associated with combatant abuse in the simple cross-tabulation setting, they are no longer statistically significant once taking into account reciprocity and the clustered nature of the data ($p = 0.253$).¹⁰⁴ Even in this relatively parsimonious model, cultural differences may not be a strong driver of state conduct during war compared to some of the other proposed factors once taking into account the role of reciprocity.

The findings from the baseline two-variable models are now subjected to further scrutiny. As Ray notes, including potential confounding variables, which are “*antecedent* third factor[s] that [bring] about a statistical association or correlation between two other variables (emphasis in original),” provides an especially strong test of any purported effect (Ray 2003:4; 2005:284). One of the most promising candidates as a confounding factor for democracy is economic development. Economic development is often cited as a cause of democratization, though the precise relationship continues to be debated (Lipset 1959; Boix and Stokes 2003; Epstein et al. 2006).¹⁰⁵ In this light, the perceived relationship between democracy and the treatment of combatants might simply be due to the separate relationships of economic

¹⁰⁴ When excluding reciprocity and instead running a series of bivariate regressions on each of the explanatory variables the results are generally the same though the statistical significance of cultural differences improves somewhat ($p = 0.095$). This suggests that culture should not be discarded immediately and will be investigated further in later models. Nevertheless, retaining reciprocity is justified both theoretically as mentioned earlier, but also statistically. For each model in Table 15, likelihood ratio tests strongly suggest that reciprocity should not be dropped from the analysis.

¹⁰⁵ For instance, Przeworski et al. argue that economic development is not related to the emergence of democracy, though it does influence the duration of democratic regimes once established (Przeworski et al. 1996). For a skeptical view on both counts, see (Robinson 2006).

development with democracy and combatant abuse respectively. Some research on conflict propensity has found that incorporating economic development conditions or even completely accounts for the purported effect of democracy (Mousseau et al. 2003; Gartzke 2007).¹⁰⁶ It may also be the case that economic development acts as a confounder with respect to regime type and the conduct of states during war. For instance, the culture of contracts generated through capitalistic economic development may influence the general conflict propensity of states (Mousseau 2003). Such a contract culture might also be expected to make it more likely that economically developed states will respect the laws of war and refrain from abusing enemy combatants.

Economic development may also influence the cost-benefit calculations of captors in more nuanced ways when deciding whether to harm or care for prisoners. Just as regime type appears to heighten the sensitivity of democracies to retaliatory abuses compared to their autocratic counterparts, economic development may function in similar ways. Countries with more developed economies tend to have citizens and soldiers possessing with higher levels of human capital and other valuable skills. Furthermore, as Rowe's engaging study of pre-WWI Europe argued, wealth gained through rising trade greatly increased the relative cost of labor for many of the great powers, which had perverse consequences for their national security policies (Rowe 1999:206). In countries like Great Britain, rising wages and the lure of opportunities in the civilian sector made it increasingly difficult for the British armed forces to recruit and retain soldiers (Rowe et al. 2002:552). Economic development can have similarly paradoxical effects by significantly increasing the price of each lost soldier. Engaging in combatant abuse substantially increases the likelihood those high-value prisoners

¹⁰⁶ However, others have found no such relationship between economic development and conflict, while the democracy finding remains robust (Maoz and Russett 1992).

caught by the adversary will be abused and potentially killed. This suggests that more economically developed states may be more sensitive to the costs of combatant abuse and thus more likely to treat enemy combatants humanely in an attempt to protect their own soldiers under enemy captivity.

Economic development may also operate in more direct ways by reducing some of the particular benefits from combatant abuse, especially the exploitation of prison labor. The economies of highly developed states often involve a complex web of interrelated knowledge-intensive industries, which require highly educated and skilled workers in order to function properly. The coerced use of prisoner labor is unlikely to contribute much benefit in such circumstances compared to less developed economies where prisoners could be put to work in agriculture, construction, or other forms of hard labor. Brooks observed a similar dynamic in the declining benefits from conquering developed states, since it becomes increasingly difficult to extract resources from such targets because of the complex nature of their economies (Brooks 2005:65-71). Just as the benefits of conquest may decline when attacking economically developed states, the benefits of combatant abuse for those same states may also diminish for similar reasons. Developed captors may be less likely to resort to combatant abuse simply because they are less likely to obtain substantial benefits from doing so.

I examine the possibility of the confounding effect of economic development using several different measures.¹⁰⁷ The consensus measure in studies of economic development and conflict remains gross domestic product (GDP) per capita (Gartzke 2007:175). Annual GDP/capita data are generally available from 1950 onwards for

¹⁰⁷ Rowe's argument suggests it is trade specifically rather than the resulting economic development, which is the main driver. In order to test for any trade effect, I also included a variable measuring a state's trade openness, which is the ratio of its annual exports and imports as a percentage of GDP. I used trade data from (Gleditsch 2002). The coefficient was not statistically significant.

most countries, but missing data is more of a problem for earlier periods. In order to obtain wider coverage, I rely on research by Angus Maddison, supplemented by data from Kristian Gleditsch and the World Bank's *World Development Indicators* (Gleditsch 2002; Maddison 2006).¹⁰⁸ The variable measures GDP/capita in constant 1990 US\$ and is lagged one year before the war started. The variable is also logged to reduce the skewed distribution of the data.

Table 16: Ordered logit analysis of combatant abuse (democracy reconsidered)

	(1)	(2)	(3)	(4)
Democracy	-0.968*	-1.124*	-1.492**	-0.933*
	(0.464)	(0.510)	(0.469)	(0.458)
State's combatants abused by opponent	3.400**	3.168**	3.716**	3.175**
	(0.601)	(0.681)	(0.774)	(0.604)
GDP/capita		-0.223		
		(0.280)		
Iron/steel production			-0.0317	
			(0.0741)	
Energy consumption				-0.0634
				(0.0509)
First cutpoint (τ_1)	0.772*	-1.020	0.673	-0.0452
	(0.375)	(2.127)	(0.641)	(0.553)
Second cutpoint (τ_2)	3.261**	1.310	3.324**	2.454**
	(0.634)	(2.171)	(0.956)	(0.740)
Observations	210	152	138	199
Log likelihood	-174.6	-127.9	-107.6	-168.1
Wald Chi2	39.46	29.41	27.90	37.38
Pseudo-R2	0.240	0.232	0.287	0.224

Robust standard errors in parentheses (clustered by war)

** p<0.01, * p<0.05, + p<0.1

The first column in Table 16 reports the baseline democracy model including reciprocity already discussed, while Model 2 incorporates the GDP/capita measure. The results suggest that economic development is not a confounding variable for democracy despite its theoretical merits. The coefficient for democracy actually

¹⁰⁸ The World Bank data is available at www.worldbank.org/data/onlinebases/onlinebases.html.

increases, but this appears to be a function of the reduced sample size from missing data for economic development.¹⁰⁹ Like democracy, the coefficient for GDP/capita is also negative as expected, but the effect is fairly weak overall ($p = 0.426$). According to these results, economic development is perhaps viewed at best as a complementary cause of abuse alongside democracy rather than a confounding variable (Ray 2003:6-10).

Even when relying on Maddison's extensive research, missing data remains an issue. The problem is evident in observations from earlier years and especially for smaller states, such as several Eastern European and Central American countries. As a robustness check, I also considered some commonly used proxies for economic development, which are based on components from the COW National Material Capabilities data set (Singer et al. 1972). Model 3 includes the log of annual steel production (thousands of tons), while Model 4 looks at the effect of logged annual energy consumption (thousands of coal-ton equivalents). Steel production actually suffers from even greater missing data problems than the initial GDP/capita measure, but still has some value as a different measure for economic development. The data on energy consumption are relatively more complete and contain only eleven missing observations across the sample under investigation. Irrespective of which measure is used, the results generally remain the same. Economic development does not appear to be a confounder for democracy.

A similar analysis is conducted for the war of attrition finding. The group of potential confounders considered is much larger. I include several of the other main explanatory factors (cultural differences, democracy, and territorial annexation), as

¹⁰⁹ If Model 1 is rerun on the reduced 152-observation sample used in Model 2, then the coefficient for democracy in the first model actually grows to -1.329. Although the coefficient from this smaller-sample model is then slightly reduced to -1.124 in Model 2 reported above, this still suggests that GDP/capita is not driving the democracy finding.

well as a few other variables (relative capabilities, unilateral treaty ratification, and joint treaty ratification). A plausible account could be developed for each of these factors to relate them to both attrition and combatant abuse in order to demonstrate the original attrition relationship to be spurious. For instance, the enmities resulting from cultural differences may be more likely to be associated with conflicts that involve pitched attritional warfare as well as the abuse of combatants. On the other hand, states that ratify treaties guaranteeing prisoner rights may be more likely to conduct the war in such a way to avoid attrition or settle before that point, but at the same time are also less likely to harm enemy combatants.

Table 17 below reports the baseline attrition model and then incorporates each of the candidate confounders into separate models. For Model 7, the unilateral ratification variables for both the main belligerent and the adversary are also included, since joint ratification is essentially an interaction effect of these two lower-order terms.¹¹⁰ Turning to the results, some of the added variables, such as democracy and territorial annexation, are significant, but in no case do any of the variables appear to pose problems as confounders for attrition. There is thus little evidence that the observed effect of attrition on combatant abuse is due to any antecedent factor lurking in the background.

¹¹⁰ For a more thorough discussion of the reasons for including all lower-order terms for interaction effects, see (Braumoeller 2004:811).

Table 17: Ordered logit analysis of combatant abuse (war of attrition reconsidered)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
War of attrition	0.958** (0.335)	1.000** (0.327)	1.045** (0.326)	1.073** (0.369)	0.957** (0.335)	0.836** (0.303)	0.877** (0.308)
State's combatants	3.114**	3.028**	3.235**	2.922**	3.108**	3.167**	3.172**
abused by opponent	(0.613)	(0.620)	(0.607)	(0.606)	(0.614)	(0.625)	(0.624)
Cultural difference		0.478 (0.323)					
Democracy			-1.076* (0.494)				
Territorial annexation				1.724** (0.479)			
Relative capabilities					-0.113 (0.554)		
Treaty ratification						-0.558 (0.378)	-0.560 (0.677)
Treaty ratification (opponent)							0.479 (0.719)
Joint treaty ratification							-0.332 (0.925)
First cutpoint (τ_1)	1.207** (0.359)	1.502** (0.412)	1.009** (0.390)	1.318** (0.356)	1.165** (0.393)	0.772+ (0.455)	0.923+ (0.518)
Second cutpoint (τ_2)	3.711** (0.655)	4.025** (0.670)	3.606** (0.667)	3.986** (0.659)	3.669** (0.661)	3.294** (0.693)	3.448** (0.730)
Observations	210	210	210	210	210	210	210
Log likelihood	-173.6	-172.5	-168.4	-164.1	-173.5	-172.1	-171.8
Wald Chi2	30.39	34.51	41.63	46.69	30.62	31.88	36.52
Pseudo-R2	0.245	0.250	0.268	0.286	0.245	0.251	0.253

Robust standard errors in parentheses (clustered by war)

** p<0.01, * p<0.05, + p<0.1

The robustness of the finding that territorial annexation is positively associated with higher levels of combatant abuse is subjected to the same procedure. A similar set of potential confounders is used as in the previous analysis on war of attrition. War of attrition is not included, since by definition a characteristic of the actual fighting once the war has begun cannot precede prewar objectives. The remaining variables are plausible antecedent factors that could be associated with territorial annexation and

account for the conduct of states towards enemy combatants. For instance, states with greater relative capabilities may be more likely to adopt ambitious objectives like annexing territory at the expense of their weaker foe, while at the same time be more likely to use their capabilities to harm enemy combatants. Table 18 below reports the results from incorporating each additional variable into the baseline annexation model. As with wars of attrition, territorial annexation remains robust even when potential confounders are taken into account. Most of the added variables are not significant, though democracy continues to have a restraining effect on combatant abuse as expected.

I choose not to report a corresponding analysis for expansionist war aims or cultural differences. The motivation for including confounders is normally to test whether a purported effect of a given variable of interest is spurious. Since neither of these two variables turned out to be terribly significant in the earlier baseline models from Table 15, little would be gained from such an analysis. As a check, candidate confounders were added to expansionist war aims in a similar manner to war of attrition, but the results generally remained the same. The coefficient weakened somewhat after confounders were included, which only seems to confirm that expansionist war aims play little systematic role in combatant abuse.

Table 18: Ordered logit analysis of combatant abuse (territorial annexation reconsidered)

	(1)	(2)	(3)	(4)	(5)	(6)
Territorial annexation	1.599** (0.526)	1.577** (0.526)	1.585** (0.601)	1.602** (0.534)	1.660** (0.473)	1.661** (0.471)
State's combatants	3.100**	3.054**	3.246**	3.103**	3.154**	3.155**
abused by opponent	(0.610)	(0.611)	(0.604)	(0.611)	(0.632)	(0.630)
Cultural difference		0.282 (0.362)				
Democracy			-0.935* (0.405)			
Relative capabilities				0.0574 (0.544)		
Treaty ratification					-0.845+ (0.472)	-0.707 (0.724)
Treaty ratification (opponent)						0.158 (0.829)
Joint treaty ratification						-0.265 (1.016)
First cutpoint (τ_1)	1.043** (0.335)	1.211** (0.408)	0.850* (0.367)	1.065** (0.399)	0.439 (0.472)	0.480 (0.556)
Second cutpoint (τ_2)	3.581** (0.623)	3.753** (0.646)	3.485** (0.642)	3.604** (0.667)	3.034** (0.702)	3.075** (0.762)
Observations	210	210	210	210	210	210
Log likelihood	-170.4	-170.0	-166.5	-170.4	-167.0	-167.0
Wald Chi2	41.43	43.41	43.74	42.15	47.39	50.15
Pseudo-R2	0.259	0.260	0.276	0.259	0.273	0.274

Robust standard errors in parentheses (clustered by war)

** p<0.01, * p<0.05, + p<0.1

The reasoning for not examining cultural differences also reflects the lack of findings from the baseline model, but the overall logic is slightly different. As noted earlier, a confounder is an antecedent factor to the variable of interest, in other words a factor that precedes the explanatory variable under investigation. Given that culture is operationalized in this study on the basis of civilization which is rooted in religion, it is difficult to imagine a factor that both precedes and is related to a state's

civilizational affiliation. Furthermore, since the variable focuses on cultural *differences*, the confounder would somehow have to account not only for the state's religion but also that of its adversary.¹¹¹ In this instance, it makes little sense to discuss potential confounders with respect to cultural differences.

The preceding series of models opened each of the baseline findings for the main explanatory variables to further scrutiny. The analysis focused on examining potential confounders that could potentially reveal the alleged relationship between each explanatory variable and combatant abuse to be spurious. While gaining some useful information regarding the robustness of some of the main findings, this approach is geared more toward evaluating the impact of one key factor of interest (Ray 2003:3). However, the theory of combatant abuse based on the nature of the belligerents and bloodshed proposed in Chapter 2 involves multiple factors. I am ultimately interested in assessing the effects of this set of explanatory variables together in the aim of building a more general model of combatant abuse. Several of the main variables were evaluated as potential confounders in the analyses above, but do not appear to play such a role. Factors like democracy, attrition, and annexation, therefore, might be better viewed as complementary causes of combatant abuse where each makes a distinct contribution to understanding the conduct of states during war. Combining these variables into a single model has the benefit of examining the effect of each factor on combatant abuse relative to each other rather than in isolation.¹¹²

¹¹¹ Of course, this same factor would then also have to be related to combatant abuse in such a way as to account for the latter's observed association with cultural differences.

¹¹² Although Ray provides several warnings regarding the choice of variables to include in a model, he acknowledges the potential value of examining competing variables together. After warning against haphazardly including control variables that are also associated with the outcome of interest, he notes, "This is not to say that a control for...a complementary cause...is uncalled for or undesirable" (Ray 2003:10).

Toward this end, I include the main explanatory variables of interest in a baseline combined model of combatant abuse reported in Table 19 below. These are democracy, war of attrition, territorial annexation, cultural differences, and reciprocity. The results in Model 1 largely reinforce those from earlier more parsimonious specifications. Democracy continues to act as a restraint, while attrition, annexation, and reciprocity increase the probability of higher levels of combatant abuse. Cultural differences are also modestly associated with worse treatment of prisoners, but the coefficient continues to fail in meeting conventional levels of statistical significance.

The remaining models introduce other measures for the war's severity to evaluate alternatives for the war of attrition variable relied upon to this point. Since wars of attrition tend to be longer and costlier in terms of lives lost, then it may follow that battle deaths and war duration should be positively related to combatant abuse when substituted into the model.¹¹³ The results from Models 2 and 3 provide some modest support to this notion. Both battle deaths per 1,000 population and duration are positively related to combatant abuse in a similar manner to war of attrition, but the coefficients are weaker in statistical terms (p-values of 0.16 and 0.15 respectively).¹¹⁴

¹¹³ The alternative measures are run in separate models with attrition excluded in order to avoid problems of multicollinearity.

¹¹⁴ The results for battle deaths differ little when using the logged absolute number of number of battle deaths instead. The results are also generally similar when using COW battle deaths data rather than PRIO for either the logged or deaths per 1,000 population measures.

Table 19: Ordered logit analysis of combatant abuse (combined model with alternative measures of war severity)

	(1)	(2)	(3)	(4)	(5)
Democracy	-1.058*	-0.925*	-0.923*	-0.965*	-1.046*
	(0.439)	(0.424)	(0.415)	(0.406)	(0.430)
War of attrition	1.198**				1.238**
	(0.371)				(0.446)
Territorial annexation	1.701**	1.434*	1.600**	1.547**	1.708**
	(0.554)	(0.615)	(0.618)	(0.584)	(0.555)
Cultural difference	0.443	0.426	0.405	0.346	0.420
	(0.333)	(0.374)	(0.343)	(0.332)	(0.305)
State's combatants abused by opponent	2.994**	3.138**	3.054**	3.156**	3.012**
	(0.615)	(0.631)	(0.601)	(0.628)	(0.639)
Battle deaths per 1,000 population		0.0263			
		(0.0189)			
Duration of war			0.155		
			(0.107)		
Expansive war aims				0.234	-0.140
				(0.394)	(0.439)
First cutpoint (τ_1)	1.390**	1.232**	1.812**	1.101**	1.358**
	(0.435)	(0.452)	(0.696)	(0.410)	(0.399)
Second cutpoint (τ_2)	4.190**	3.793**	4.478**	3.747**	4.160**
	(0.684)	(0.706)	(0.976)	(0.640)	(0.655)
Observations	210	204	210	210	210
Log likelihood	-158.6	-159.2	-164.5	-165.8	-158.5
Wald Chi2	47.39	42.93	44.62	58.64	64.66
Pseudo-R2	0.310	0.289	0.285	0.279	0.311

Robust standard errors in parentheses (clustered by war)

** p<0.01, * p<0.05, + p<0.1

In his analysis of civilian victimization, Downes uses expansionist war aims as another proxy in place of war of attrition for the severity of the war.¹¹⁵ Downes notes that wars with more ambitious aims may be more likely to induce greater resistance from the adversary, which in turn generally make them longer and bloodier (Downes 2008:59-60). This is not necessarily the case, though it may be correct on average. For

¹¹⁵ The variable is used more specifically in terms of his “desperation logic” for civilian victimization (Downes 2008:29-35).

instance, the 2003 U.S.-Iraq War qualifies as an expansionist war for the United States since it sought to overthrow the Hussein regime. As is well known, the interstate portion of the war ended relatively quickly with few U.S. casualties, though it should be noted the same cannot be said for the insurgency that soon followed.

On the whole, the expansive war aims variable may indeed be an alternative measure for war of attrition, or instead it could be viewed as a prior factor. I take into account the first possibility by substituting expansive war aims for war of attrition in Model 4, and address the second possibility by including both together in Model 5. The overall findings do not change significantly in either case. In Model 4, the coefficient for expansionist war aims continues earlier trends of being positive but with weak statistical significance. In Model 5, the coefficient actually becomes slightly negative but with a relatively large standard error ($p = 0.552$), while the positive effect of attrition remains consistent.¹¹⁶ The war of attrition indicator thus remains a more consistent factor for explaining combatant abuse than alternative measures. All in all, the results for the main explanatory variables from Table 19 above appear robust across a variety of model specifications.

One other issue that has not yet been discussed in detail, but may influence the earlier findings, concerns possible simultaneity bias in the reciprocity variable, which measures whether the state's own soldiers were abused by the adversary. Across all models this variable is consistently and positively associated with greater levels of combatant abuse, which follows the logic that retaliation is a potent force during war. However, the adversary's behavior is likely influenced by the belligerent's own

¹¹⁶ The two variables exhibit a moderate positive correlation ($r = 0.37$), but this does not appear to significantly alter the relationship of either variable with combatant abuse under various model specifications.

conduct, which creates a potential problem of endogeneity.¹¹⁷ This means the dependent variable measuring the belligerent's conduct toward the adversary is in essence included on the right-hand side of the equation, which is supposed to only contain strictly independent variables.¹¹⁸ The presence of endogeneity means the coefficient for reciprocity will tend to be biased upwards. If the bias is strong enough this would negate the earlier findings regarding the positive relationship between reciprocity and combatant abuse, but could also have broader implications for the overall findings.

I attempt to address this issue using instrumental variables analysis for the potentially endogenous reciprocity measure to assess the degree to which previous results are biased. A good instrument should be uncorrelated with the error term in the regression model, but highly correlated with the endogenous variable (Baum 2006:186). In practice it is often extremely difficult to find a separate valid instrument, so I follow the common practice by constructing an instrument from other variables that are correlated with the adversary's level of abuse using two-stage least squares. One of the costs of this approach is a loss in efficiency whereby the standard errors of the estimator will be larger, since the instrument tends to be not as precise a measure for the endogenous term compared to the original variable itself (Baum 2006:211-212).

The instrument is constructed using the independent variables from the earlier models that did not take into account endogeneity (e.g. cultural differences, war of

¹¹⁷ This is reflected in the corresponding warring-directed-dyad where the adversary is coded as the violator and the current state as the victim, and in which the current state's behavior is then considered as an independent variable.

¹¹⁸ For a similar discussion in terms of compliance with the laws of war more generally, see (Morrow 2007:563). More specifically, if reciprocity is endogenous to the dependent variable, then this also means it is correlated with the error term (ϵ), which violates one of the key assumptions of the regression estimators used up to this point (Long 1997:119; Greene 2003:378-379).

attrition, etc.), as well as the corollary values for the adversary on other relevant variables (e.g. whether adversary is a democracy, aims for territorial annexation, etc). Unfortunately, no instrumental variable estimator exists for the special case of an ordered endogenous variable. I rely on the standard estimator, which assumes both the endogenous and dependent variables are continuous. This is far from ideal, but should still give a good indication of any possible sources of endogeneity. While not reported here for the sake of brevity, modeling the adversary's conduct as endogenous in a corresponding manner across earlier models does not substantially alter the results. Some of the coefficients, in particular those for reciprocity, are attenuated somewhat but overall the results for the main variables of interest remain largely similar.¹¹⁹ Moreover, a series of Durbin-Wu-Hausman tests indicate it is justifiable to rely on the standard estimation methods used earlier rather than employing an endogenous regressor.¹²⁰

Even putting aside concerns over endogeneity, the existing measure for the adversary's conduct is admittedly coarse. An ideal alternative would be to obtain annual or even more fine-grained temporal data with precise information on the dates and levels of all abusive acts committed by both sides during war. Many other scholars have unfortunately found such data extremely difficult to collect for the purposes of large-n analysis (Downes 2008:48). As Morrow remarked when discussing his decision to focus on the behavior of belligerents for each war as a whole:

Finally, I would like to make clear what the data set is not. It is not a comprehensive listing of all violations for a given warring directed dyad-issue-area. A comprehensive listing would be fantastic for testing

¹¹⁹ As an alternative, I also ran the analysis using an instrumental variable probit estimator (Maddala 1983:240-241). The dependent variable of combatant abuse is treated as dichotomous though the endogenous reciprocity variable must still be treated as continuous. To construct a dichotomous measure for the dependent variable, instances of high combatant abuse were coded 1, while medium case of abuse were coded 0 alongside lower levels. Results generally remained the same.

¹²⁰ All supplementary results are available from the author.

the dynamics of compliance, but it is a fantasy to believe that it could be collected for even a small set of the cases (2007:563).

The reciprocal dynamics in the behavior of belligerents can perhaps be more effectively examined through in-depth case studies, and I will consider this question in greater detail in subsequent chapters. For the time being, the current measure for the adversary's behavior, while far from perfect, at least has the benefit of beginning to capture some of the effects of the forces of reciprocity on the conduct of states during war.

The final set of models seeks to build on insights from the earlier specifications to create a more general model for understanding the causes of combatant abuse. Larger statistical models certainly have the risk of becoming unwieldy, but if constructed carefully they have the added benefit of more directly examining the effects of several variables of interest in relation to each other (Oneal and Russett 2005:295).

Table 20 below contains the main set of explanatory variables, including expansionist war aims, from the previous table as a baseline and then adds several other factors of interest. Model 2 includes the dummy variable for "Deterrence," which takes on a value of 1 if both states are coded as capable of harming noncombatants and 0 otherwise. As noted earlier, when both states are capable captors each may be deterred from harming the adversary's combatants out of fear the opponent will reciprocate against the prisoners under its control. The results from Model 2 appear to bear this logic out, since a situation of deterrence has a restraining effect on combatant abuse while the other coefficients are largely unchanged.¹²¹

¹²¹ The measure for deterrence was constructed in a similar manner to that in Downes (2008:61). Though surprisingly, in many cases he finds that deterrence actually increases the likelihood of abuse in the case of civilian victimization (Downes 2008:67). A positive coefficient suggests a state is *more* likely to commit violations against an adversary having the capacity to retaliate than against one that is incapable. This contrasts with the result I find in Table 20, where deterrence acts as a constraint on abuses, which seems more intuitively plausible.

Table 20: Ordered logit analysis of combatant abuse (combined model with other independent variables)

	(1)	(2)	(3)	(4)	(5)
Democracy	-1.046*	-1.145**	-1.046*	-0.998*	-1.043*
	(0.430)	(0.439)	(0.430)	(0.415)	(0.426)
War of attrition	1.238**	1.323**	1.238**	1.233**	1.085**
	(0.446)	(0.438)	(0.444)	(0.448)	(0.411)
Expansive war aims	-0.140	-0.352	-0.141	-0.0334	-0.0311
	(0.439)	(0.440)	(0.438)	(0.455)	(0.417)
Territorial annexation	1.708**	1.745**	1.708**	1.599**	1.727**
	(0.555)	(0.548)	(0.571)	(0.567)	(0.526)
Cultural difference	0.420	0.390	0.420	0.361	0.318
	(0.305)	(0.286)	(0.322)	(0.330)	(0.316)
State's combatants abused by opponent	3.012**	3.994**	3.012**	3.105**	3.064**
	(0.639)	(0.841)	(0.639)	(0.643)	(0.648)
Deterrence		-2.446**			
		(0.857)			
Relative capabilities			0.00253	-0.401	
			(0.627)	(0.777)	
Allied contribution				-1.017	
				(0.912)	
Treaty ratification					-0.527
					(0.440)
Treaty ratification (opponent)					
Joint treaty ratification					
1949 norms					
1977 norms					
First cutpoint (τ_1)	1.358**	-0.288	1.359**	1.079+	0.897
	(0.399)	(0.535)	(0.414)	(0.553)	(0.554)
Second cutpoint (τ_2)	4.160**	2.635**	4.161**	3.904**	3.717**
	(0.655)	(0.687)	(0.656)	(0.729)	(0.748)
Observations	210	210	210	210	210
Log likelihood	-158.5	-150.6	-158.5	-157.2	-157.4
Wald Chi2	64.66	57.09	64.98	67.28	66.64
Pseudo-R2	0.311	0.345	0.311	0.316	0.315

Robust standard errors in parentheses (clustered by war)

** p<0.01, * p<0.05, + p<0.1

Table 20(continued)

	(6)	(7)	(8)	(9)
Democracy	-1.059*	-1.136**	-1.146**	-1.211**
	(0.421)	(0.427)	(0.426)	(0.404)
War of attrition	1.171**	1.377**	1.287**	1.318**
	(0.404)	(0.451)	(0.446)	(0.401)
Expansive war aims	-0.0628	-0.125	-0.104	-0.150
	(0.415)	(0.446)	(0.449)	(0.458)
Territorial annexation	1.734**	1.758**	1.716**	1.659**
	(0.539)	(0.559)	(0.546)	(0.525)
Cultural difference	0.369	0.349	0.339	0.171
	(0.315)	(0.318)	(0.304)	(0.308)
State's combatants abused by opponent	3.065**	3.034**	3.155**	4.430**
	(0.646)	(0.638)	(0.650)	(0.926)
Deterrence				-2.658**
				(0.777)
Relative capabilities				-0.369
				(0.855)
Allied contribution				-1.152
				(1.023)
Treaty ratification	-0.508			-0.440
	(0.649)			(0.719)
Treaty ratification (opponent)	0.728			0.502
	(0.818)			(0.809)
Joint treaty ratification	-0.528			-0.442
	(0.997)			(1.006)
1949 norms		0.643		
		(0.446)		
1977 norms			1.989+	2.488*
			(1.208)	(1.145)
First cutpoint (τ_1)	1.147+	1.520**	1.482**	-0.835
	(0.612)	(0.413)	(0.398)	(0.794)
Second cutpoint (τ_2)	3.974**	4.340**	4.303**	2.190*
	(0.788)	(0.657)	(0.646)	(0.895)
Observations	210	210	210	210
Log likelihood	-156.9	-157.2	-156.3	-144.8
Wald Chi2	73.27	65.13	70.91	66.02
Pseudo-R2	0.318	0.316	0.320	0.370

Robust standard errors in parentheses (clustered by war)

** p<0.01, * p<0.05, + p<0.1

As noted before, states with greater capabilities may be more able and willing to harm combatants. However, when a state's own relative capabilities are included in Model 3 the variable has little effect. Adding the capabilities of the state's allied belligerents in Model 4 also yields little insight, though the coefficient for both variables actually becomes slightly negative. These ambiguous results for capabilities may reflect the fact that although more powerful states may have a greater ability to abuse combatants, they may also have less incentive to do so, given the likely superiority they possess over their opponent. On the other hand, weaker states may have less ability, but a greater interest, in resorting to combatant abuse as part of their warfighting strategy. Even in this case the ambiguous results for material capabilities suggest that combatant abuse is far from simply a "weapon of the weak."¹²²

The next models incorporate various measures for international law and norms. As expected, Model 5 finds that states that ratified the most recent convention on the laws of war were less likely to harm combatants, though the coefficient fails to meet standard levels of significance. In Model 6, joint treaty ratification has a similar restraining effect, though the coefficient is still relatively weak. Whether the adversary unilaterally ratified the treaty actually has a positive though modest effect, which perhaps suggests that belligerents may calculate they can harm enemy combatants in the expectation that the adversary is less likely to respond in kind.

With respect to the international law variables, none of the three measures take into account the prior process that led states to ratify or reject the given treaty in the first place. A growing literature has tried to incorporate this selection effect in different ways when assessing the overall effectiveness of international law on state

¹²² This phrase was taken from Scott's study of various forms of resistance employed by weak and marginalized groups against stronger actors (Scott 1985).

behavior (Simmons and Hopkins 2005; von Stein 2005).¹²³ The same factors that may influence the conduct of states during war may also influence their tendency to commit to international treaties. Unfortunately, it is beyond the scope of this project to develop a fully articulated model for state decision making concerning the ratification of international humanitarian law.¹²⁴ For the current purposes of this study, I only report the existing treaty results, while making clear that they do not take into account possible issues regarding selection effects.

Turning from legal to more broadly-based normative effects, Models 7 and 8 include measures for the wider impact of the 1949 Geneva Conventions and the 1977 Additional Protocol I respectively. Somewhat surprisingly, both of the 1949 and 1977 variables are positively associated with combatant abuse and attain modest levels statistical significance (p-values of 0.1 and 0.15 respectively)¹²⁵. While several post-WWII conflicts, such as the 1982 Falklands War and U.S. fighting in the Persian Gulf War were associated with low levels of abuse, the Iran-Iraq, Ethiopian-Eritrean, and Nagorno-Karabakh wars, among others, resulted in an enormous amount of suffering for captured combatants. This is a sobering trend, which suggests the conduct of war is not necessarily becoming more humane in the contemporary era. One historian's ambivalent characterization of international norms and warfare in the latter half of the twentieth century is fitting: "the 1949 Convention and the Protocols of 1977

¹²³ In her reanalysis of the effect of IMF Article VIII on monetary policy compliance, von Stein finds that treaty effects are overstated, or biased upward, when the selection process is not taken into account (2005:611-612). This seems to imply that we can be less concerned for role of treaty effects in the case of combatant abuse, since even if they are overstated they are already fairly weak. It follows that taking into account selection effects would only reduce the coefficients for international law even further. However, as she shows in her general statistical model, the direction of the bias cannot be determined a priori, but is rather contingent on several other factors that may not be automatically known by the researcher (von Stein 2005:617). We should, therefore, remain cautious in assigning any definitive value to the treaty effects reported above even if they suggest a weak overall effect on combatant abuse.

¹²⁴ Though a current working paper by the author attempts to develop and empirically evaluate a framework for understanding the ratification of the laws of war.

¹²⁵ The results are generally the same when using instead the post-1949 and post-1977 year dummy variables to capture normative effects.

succeeded in establishing international standards of treatment for POWs that have universal acceptance, *at least formally* (emphasis added)” (Beaumont 1996:288-289).

Putting it all together, the final column in Table 20 reports the overall Model 9, which combines several factors from the preceding analyses.¹²⁶ As in the case of all of the earlier models, the main variables of interest remain consistently significant and in the expected direction. Democracy has a restraining effect, while war of attrition, territorial annexation, and reciprocity all increase the probability of combatant abuse. Cultural difference continues to have a moderately positive effect, while expansive war aims actually has a slight negative though again insignificant effect as in several of the previous models from Table 20. The coefficients for the other variables remain in the same direction at similar levels of statistical significance.

Table 21 provides a further indication of the stability of the coefficients across various model specifications. The table shows the highest and lowest coefficient estimates for each of the main explanatory variables based on the 31 separate models reported in the tables from the preceding analysis.¹²⁷ The values vary somewhat for the main findings involving democracy, war of attrition, territorial annexation, and reciprocity, but in all cases the size and direction of the coefficient estimates remain fairly consistent. On the other hand, the maximum and minimum values for expansive war aims are positive and negative respectively, which reinforces the general lack of any findings for this factor. Both estimates for cultural differences remain positive, but the low estimate is the closest to 0/no effect of all the variables except expansive war aims. Table 21, therefore, provides further evidence that the results for the main

¹²⁶ The 1977 norm variable is used instead of 1949 given the former was found to be more statistically significant from the prior two models.

¹²⁷ Subsequent robustness analysis involved scores of different models, but across all of these specifications the size of the coefficients for the same set of variables generally remained consistent.

explanatory variables were not due to one particular model, but are rather robust across a wide range of specifications.

Table 21: Range of estimates for main explanatory variables

Variable	Low estimate	High estimate
Democracy	-0.923	-1.492
War of attrition	0.957	1.377
Expansive war aims	-0.150	0.234
Territorial annexation	1.434	1.758
Cultural difference	0.171	0.478
State's combatants abused by opponent	2.922	4.430

The values from Table 21 demonstrate the resilience of the statistical findings, but provide little indication of the substantive impact of each factor on the level of combatant abuse. The full specification from Model 9 in Table 20 above is used to estimate the substantive effects of each of the independent variables on the level of combatant abuse. Since ordinal regression models are nonlinear with respect to the probabilities of observing specific values on the dependent variable, the effects of the independent variables are not as easy to interpret compared to the case of OLS (Long 1997:127-140).

Table 22 reports predicted probabilities of combatant abuse with the independent values set to specific values of interest. For ease of presentation, only the predicted probability of observing a high level of combatant abuse is reported.¹²⁸ Predicted probabilities were simulated using the *Clarify* package (King et al. 2000; Tomz et al. 2003). The first column presents the initial probability of observing high combatant abuse when the relevant independent variable is set to a lower value with all other variables held constant at their means. The lower value is 0 for dichotomous variables, such as democracy, and the twentieth percentile value for continuous

¹²⁸ Probabilities for middle and low levels of combatant abuse are available from the author.

variables, such as relative capabilities. The next column then gives the predicted probability once the independent variable is changed to a higher value, which equals 1 for dichotomous variables and the eightieth percentile for continuous variables, while all other variables are again held constant at their means. The third column reports the absolute change in the predicted probability when moving from lower to higher values, and the final column calculates the percentage change between the two predicted probabilities.¹²⁹

Democracy has a fairly sizable impact and reduces by over 60 percent the probability that a state will commit high levels of combatant abuse. Wars of attrition make it almost three-times more likely that states will harm enemy combatants. The battle deaths and duration measures for war severity are also positively related to combatant abuse, though at more moderate levels in comparison to the general attrition variable.¹³⁰ Expansive war aims have a slight negative effect when all other variables are held at their means, yet this factor also fails to be very significant. In contrast, states seeking territorial annexation were over three-times more likely to resort to combatant abuse. The results indicate that in a substantive sense the nature of the belligerents and the bloodshed exert strong effects on the resort to high levels of abuse.

¹²⁹ Some scholars are wary of the use of percentage changes because of the difficulty of assessing the meaningful impact of the change in the independent variable on the outcome of interest (Ray 2003:10-12). I choose to report both the absolute and percentage changes in the predicted values and leave it to the reader to decide which they find more useful.

¹³⁰ Probabilities for these variables were generated by rerunning the full model with each variable substituted for war of attrition.

Table 22: Substantive effects of independent variables on the probability of high levels of combatant abuse†

	Initial probability	Probability after increase in variable	Absolute change in probability	Percent change in probability
Democracy	0.23	0.09	-0.15	-63
War of attrition	0.12	0.32	0.21	181
Battle deaths per 1,000 population‡	0.17	0.21	0.04	24
Duration of war‡	0.15	0.23	0.08	52
Expansive war aims	0.19	0.17	-0.02	-10
Territorial annexation	0.14	0.45	0.31	218
Cultural difference	0.16	0.19	0.03	16
State's combatants abused by opponent	0.02	0.50	0.49	2773
Deterrence	0.69	0.15	-0.54	-78
Relative capabilities	0.20	0.17	-0.03	-15
Allied contribution	0.21	0.15	-0.07	-32
Treaty ratification	0.25	0.17	-0.08	-32
Treaty ratification (opponent)	0.15	0.20	0.05	36
Joint treaty ratification	0.25	0.17	-0.08	-32
1949 norms‡	0.15	0.29	0.15	102
1977 norms	0.16	0.67	0.51	315

†Baseline probability of high combatant abuse equals 0.192 where all variables are held at their means. For the predicted probabilities reported above all independent variables are held constant at their means except for the variable of interest. Dichotomous variables are changed from 0 to 1, while continuous variables are changed from their 20th to 80th percentile values. All estimates were calculated using *Clarify*.

‡ Estimates for these variables were calculated by rerunning the full model but substituting the relevant variable for war of attrition in the case of battle deaths and duration, and for 1977 norms in the case of 1949 norms.

As in the regression models, cultural difference has a modest effect of an increase in 16 percent for high levels of abuse. Reciprocity exerts the single largest relative effect. States whose soldiers are victims of combatant abuse are more than twenty-times more likely to mistreat enemy combatant in kind. This finding on its own mandates that reciprocity dynamics be examined in greater detail, as will be done in later chapters. However, the relatively large effect for reciprocity should be treated

with some caution. First and as noted earlier, this general model does not explicitly take into account likely endogeneity issues, which upwardly bias the effect of reciprocity. Second, the simulated values use the lower end of no abuses committed by the opponent rather than distinguishing between the different possible levels of abuse. If a three-level categorical measure for abuses by the opponent is substituted, then moving from medium to high levels of opponent abuse is estimated to result in a percent change increase in the likelihood of high levels of abuse of around 204 percent, which is of a considerably lower order.¹³¹ The particular operationalization of reciprocity therefore affects the precise estimate of the effects of abuses by the opponent, but in all cases the size of the effect remains statistically and substantively positive.

On the other hand, when a situation of deterrence exists between co-belligerents, states are about 75-percent less likely to turn on their prisoners. This provides further indirect support for the role of reciprocity, since expectations of likely retaliation appear to make states think twice before committing abuses should their opponent have the capability to respond in kind. In contrast, the capabilities and law variables all continue to have fairly modest effects on the level of combatant abuse. Finally, the 1949 and 1977 norms variables show that the normative force of principles restraining the conduct of war still have some way to go. Both are positive and associated with a one-to-three times increase in the probability of high combatant abuse.¹³² Taken as a whole, the results reinforce the regression findings and illustrate

¹³¹ This is based on probabilities of 0.23 for medium and 0.71 for high, though the absolute probability change remains quite impressive. In a similar manner, shifting from high levels of abuse versus at any of the lower levels is associated with a similar percent change in the probability of high abuse in kind of around 202 percent, which is based on probabilities of 0.54 and 0.18 respectively. Whichever the particular measure of reciprocity used, the effects of the other variables of interest largely remain the same.

¹³² In a similar manner to the war severity proxies, values for the 1949 norms variable were calculated by rerunning the full model and replacing the 1977 measure. The 1977 finding does not appear to be a

that factors related to the nature of the belligerents and bloodshed, in the form of democracy along with the aims and severity of war, play a large role alongside reciprocity in shaping the conduct of states during the course of the fighting.

Robustness Checks

Results from the main regression analysis were also subjected to a variety of additional specification and robustness tests. For the sake of brevity, the results are not reported here, but are available from the author. To ensure the results were not being driven by the particular measure of combatant abuse chosen, a number of alternative measures were also considered. Perhaps the three-level classification system of high, medium, and low levels of combatant abuse is in fact too fine-grained and what really matters is distinguishing high-level abuses from all other forms of abuse. A dichotomous variable was created “High-level Combatant Abuse” which codes cases of combatant abuse as high, while both medium and low cases are coded as 0. Using this dichotomous measure does not change the results substantially, since the effects for all of the main variables of interest continue to hold.

In contrast, perhaps the main measure for the outcome of interest is not fine-grained enough and in fact is masking important differences in the level of combatant abuse, which has crucial implications for understanding its causes. It is important to remember that the main measure for combatant abuse is a summary indicator of six different types of violations ranging from execution to housing conditions. The overall coding was then based on the highest value obtained across the individual measures,

statistical artifact of the particular model specification. For instance, 31 percent of the observations for belligerents in pre-1977 wars involved the highest level of combatant abuse, but this figure rose to 41 percent for all post-1977 wars. While this should not be taken as meaning that greater normative support for the laws of war actually caused higher levels of combatant abuse, it does at least suggest that attempts to codify and embrace the laws of war are frequently motivated by an effort to curb persistent and growing excesses in the conduct of existing belligerents. International humanitarian norms may oftentimes be just as much a response to contemporary trends in abuses, instead of the more optimistic view that such principles act as a leading force in restraining state behavior.

since any of these violations on their own is considered a war crime under international law. Other decision rules could also be taken when aggregating these component measures. One problem confronted when trying to create other aggregate measures is that many observations have missing values for some of the component variables. In order to address this problem, I employed multiple imputation to substitute for any missing values on the component variables.¹³³ I then used the newly completed data set to create two alternative measures for the overall combatant abuse indicator.¹³⁴

The first measure takes the average level of abuse across the six component variables, where “High” equals 2, “Medium” equals 1, and “Low” equals 0.¹³⁵ The average is then reduced to a similar three-level ordinal ranking based on the following rules: “Low” if the average score is less than 0.5; “Medium” if the score is between 0.5 and 1.5; “High” if the score is greater than 1.5. This coding rule actually provides a fairly tough test, since including such a wide range of values within the medium-level category reduces the level of variation amongst the cases of combatant abuse. Nevertheless, the results remain substantially the same using this alternative trichotomous measure. The second measure simply sums the six component variables together to form an overall index for combatant abuse which varies between a minimum of 0 and a maximum of 11. In a similar manner, using this measure does not change the results in any meaningful way.¹³⁶

¹³³ Multiple imputation was implemented using the *Amelia* program (King et al. 2001).

¹³⁴ More precisely, *Amelia* created several versions of the data set, in this case five, with different values for each missing cell to reflect uncertainty over the nature of the missing data.

¹³⁵ For the two dichotomous components, instances of forced military conscription are coded as “High,” while instances of denial of legal rights are coded as “Medium.”

¹³⁶ Since this dependent variable has a larger range of values, all models were estimated using ordinary least squares (OLS).

I also used the individual components to investigate whether the causes of combatant abuse differed depending on the particular type of violation. Although there are some differences across types of violation, the effects are generally of a matter of size rather than statistical significance and thus do not undermine the overall results.¹³⁷ Finally, I also ran the models using the percentage of prisoners killed in captivity out of the total number of prisoners captured, where this information was available. In general the results were in the expected direction though the level of statistical significance was attenuated somewhat. However, these results are not completely surprising since precise values for this measure could only be obtained for approximately one quarter of the cases, which greatly reduced the degrees of freedom. In sum, across multiple alternative measures of combatant abuse, the results generally remain robust.

In a similar manner, I tested to see if the democracy finding was being driven by the particular data source or coding rule chosen by relying on several alternative measures. I checked the results using cutoffs on the Polity score of 6 and 8 instead of the cutoff of 7 used in the main analysis, but the results remain largely unaltered. As a separate measure, I substituted Doyle's coding for liberal states which includes both institutional and normative components. The results are not affected and, if anything, the effect of democracy is strengthened when using Doyle's measure.¹³⁸

¹³⁷ For instance, the size of the democracy coefficient was highest for denial of legal rights and living conditions, though still substantively and statistically significant for the remaining categories of violations.

¹³⁸ Other commonly used measures for democracy were also considered, including those by ACLP and Vanhanen, but the results remain essentially the same (Alvarez et al. 1996; Vanhanen 2000). A related issue concerns the potential effects of different regimes beyond the democracy-autocracy dichotomy. A variable "anocracy" was created along similar lines as in other studies to capture mixed regimes between the democracy-autocracy extremes (Downes 2008:69-70). A state is considered an anocracy if it has a Polity score between -6 and 6. Including the anocracy measure does not substantially alter the results for the effect of democracy, while the effect of anocracy is similar to more extreme forms of autocracies. A different typology developed by Geddes categorizes authoritarian regimes as personalist dictatorships, single-party regimes, or military regimes (Geddes 1999b; 1999a). Again, including these variables does not substantially alter the effect of democracy, while the effects of the three authoritarian

Some might also argue the purported democracy finding may in actual fact be hiding a more particular United States effect given the latter's prominence in twentieth century wars. Current behavior in the War on Terror notwithstanding, perhaps the United States has consistently acted in a more humane manner toward prisoners than other democracies. Studies in other areas, such as the imposition of economic sanctions, have indeed found that the purported effects of democracy are largely driven by U.S. behavior (Hafner-Burton and Montgomery 2008). I test for this possibility by including a U.S. dummy variable in the models alongside democracy. The democracy coefficients become slightly attenuated, which is not wholly surprising since the United States is also a democracy, and the U.S. dummy variable is in general negatively related to combatant abuse. However, the U.S. variable never comes close to attaining standard levels of statistical significance, while the significance of the democracy coefficient remains similar to its initial values. The results indicate the democracy finding is robust for alternative measures, but also that any particularities of the United States omitted from earlier models do not account for U.S. conduct toward enemy combatants during war.

Although a U.S. effect does not exist, other country-specific effects may be operating behind the scenes. One of the most likely candidates involves Communist countries. Scholars studying mass killings more generally have argued that Communist regimes are especially prone to harming their populations as part of the larger goal to radically alter the entire basis of their societies (Valentino 2004:92-97). If such regimes could be so cruel to their own citizens, then there may be little reason

variables are indistinguishable. Although not significant, the effect for military regime is still positive (i.e. heightens the probability of abuse) but much less so than for the other two authoritarian categories, which is suggestive of some possible differences in the behavior of this type of regime. Considering the Geddes data only cover the post-WWII period and thus exclude a great number of observations in the data set, examining possible differences between nondemocracies in the conduct of war is an interesting avenue for further research.

to think they would not hesitate to act in similar ways to the populations of their foreign enemies. In the realm of prisoners of war, Communist states have taken certain notable steps that could be indicative of a greater likelihood to harm combatants. For instance, despite widespread participation in the 1949 Geneva Conventions, most Communist states entered a reservation to Article 85 of the Third Convention relating to prisoners, “which state[s] that prisoners prosecuted for acts committed prior to their being captured retained, *even if convicted*, the benefits of the Convention” (Beaumont 1996:286). Communist countries generally interpreted their reservation to this provision to mean that even soldiers suspected of alleged crimes could be denied POW status, which in turn allowed them to treat prisoners with greater latitude as they saw fit.

Several cases certainly seem to reflect a Communist tendency toward abuse, since both North Korean and Vietnamese treatment of prisoners during their wars with the United States was far from humane (Miller 1975:114, 165). I test for this possibility by including a dummy variable for Communist belligerents in the main regression models. Perhaps somewhat surprisingly, across various model specifications the Communist variable is actually slightly negative though never comes close to reaching standard thresholds of statistical significance, while none of the other findings are drastically changed.

While particularly countries do not appear to be influencing the results in any meaningful sense, the same cannot be assumed for particular wars. I check whether or not the results are driven by either of the two world wars. Along with being probably the most distinctive events in the history of twentieth century warfare, both wars also involved a large number of capable belligerents compared to other conflicts. In order to examine if either war is affecting the results, I rerun the models with dummy variables for belligerents from World War I and World War II respectively. If either

war is truly distinctive in terms of the treatment of combatants, then the relevant coefficients should be significant and the findings for other factors may in turn be weakened. Again, none of the results for the main variables of interest are substantially affected.

Attention to wars from particular times in the twentieth century raises the additional issue of whether particular period effects are operating that influence the size and direction of the coefficients over time. As a rough initial test of this possibility, I rerun the models but split the observations into pre and post-1950 samples.¹³⁹ While the significance of the coefficients is attenuated somewhat, which is to a certain degree is expected given the dramatically smaller sample size for each period, the directions of all the explanatory variables remain the same. The negative democracy finding, or the positive effects for war of attrition and annexation, appears to be fairly consistent over time.¹⁴⁰

Although differences over time may not be apparent, perhaps there are distinctive spatial logics. This would imply that the effects of particular factors may operate differently depending on the regional context. Geography may matter in shaping the likelihood and degree of combatant abuse in a number of different ways. Particular climates may make it more or less difficult to properly care for prisoners. Tropical climates in particular present several problems such as insects and communicable diseases, which make supplying adequate housing conditions much more problematic. Alongside these specific challenges for combatants in captivity, certain topographies may also increase the likelihood of capturing large numbers of

¹³⁹ I chose 1950 as a dividing line, since it is the closest approximate midpoint for the entire time period under study from 1898 to 2003. This also reflects a general test of whether there were substantial differences between pre and post-Geneva periods, since the Geneva Conventions were negotiated in 1949.

¹⁴⁰ The equality of coefficients was evaluated using Chow tests across each of the variables.

prisoners. For instance, island battlefields could make it much more difficult for soldiers to flee or desert since they literally have nowhere else to go. Geography may also operate in more subtle ways by interacting and influencing other factors found to affect combatant abuse. Mountainous or tropical areas likely make large-scale operations and troop movements more problematic and as a result conflicts in such locations may be more prone to devolving into wars of attrition. On the other hand, these same features, among others such as bordering oceans or large deserts, may make conquest more difficult and in turn reduce the likelihood an adversary would seek territorial annexation (Van Evera 1999:163)

Geography presents several pathways that may influence the resort to combatant abuse. Most of these possibilities are unfortunately difficult to test in a large-n setting because many wars often take place across several different climates or topographies. In order to begin to test for the possible effects of geography, I rerun the models but split the data by region according to COW region identifiers (Western Hemisphere, Europe, Africa, Middle East, Asia, and Oceania).¹⁴¹ When employing either the primary location of the battlefield, or the home location for each given belligerent, as the basis for coding the regional affiliation of each observation the results again indicate that no significant differences exist for the main explanatory variables across different regions.¹⁴²

¹⁴¹ Since there were no wars involving capable captors from Oceania during the time period, this region is excluded (for instance, Australia participated in the Korean War but is considered to have been a subservient ally under broader U.S. leadership).

¹⁴² The tests must be considered as only suggestive of the absence of regional effects. In the case of battlefield location, it was difficult to obtain reliable estimates for Africa and the Western Hemisphere because of the relatively small number of observations for each region (9 and 16 respectively). In the case of home region, these two categories in addition to Asia were excluded for similar reasons. Nevertheless, for the regions that could be examined the results were robust across a variety of model specifications. The only exception was that the deterrence coefficient for Middle East took on a positive sign, though all other variables remained the same.

Taken together, the combined set of tests, while far from exhaustive, suggests that the main findings regarding regime type, the nature of the aims and severity of the conflict, alongside the role of reciprocity are consistent factors for understanding the abuse of combatants during war.

Conclusion

In sum, both the regression analysis and substantive results indicate a great deal of support for several of the main hypotheses related to the nature of the belligerents and bloodshed framework put forward in the earlier theory chapter. Across a wide range of model specifications and measures, the nature of democratic belligerents was found to substantially improve their treatment of prisoners, which diverges sharply from findings in several recent studies on civilian victimization. The results leave open the relative role of structural versus normative factors in accounting for the effect of democracy on combatant abuse, but this is a question that is taken up in greater detail in the following chapter.

Despite the restraining effects of regime type, the aims and nature of the fighting also greatly condition the conduct of states. Wars that get bogged down into costly battles of attrition, or conflicts where states aim to annex territory from the adversary, are much more likely to result in high levels of combatant abuse. Nevertheless, not all aims are equal. Wars where the aim is unconditional surrender or regime change just as often result in good treatment in place of abuse, once other factors are taken into account. Belligerents thus have contrasting incentives in certain cases that need to be taken into account when deciding how to treat captured combatants. Looming over their decisions is an ever-present concern for reciprocity, since violations committed by the adversary are more often than not associated with abuse in kind. Finally, cultural differences are an oft-cited determinant of combatant abuse, but prove to be inconsistent in explaining patterns of combatant abuse across

the full set of cases in the data set. However, it should be kept in mind the measure for culture necessarily only looks at preexisting religious differences amongst the warring parties, which leaves some of the more nuanced effects of culture open to further study.

The quantitative analysis highlighted several notable patterns in the abuse of combatants across twentieth century warfare and beyond. The remaining chapters delve further into some of the key findings by investigating the logic connecting several components from the nature of the belligerents and the bloodshed to the degree to which combatants are treated or mistreated by their adversary once they are captured during the course of war.

CHAPTER 5

A CLOSER LOOK AT THE NATURE OF THE BELLIGERENTS: DEMOCRATIC NORMS, INSTITUTIONS, AND COMBATANT ABUSE

Introduction

One of the main findings from the preceding quantitative analysis was the tendency for democracies to be less likely to resort to higher levels of combatant abuse. Across a wide range of specifications and measures for regime type, democratic belligerents were less likely than their autocratic counterparts to abuse enemy combatants who fell into their hands. Despite the robustness of this overall finding, the quantitative analysis did not shed much light on precisely *why* democracies generally treat their prisoners more humanely. Separate normative and institutional approaches provide distinct logics to explain democratic restraint toward enemy combatants, but the aggregate data used for the quantitative analysis make it difficult to determine the merits of each account.

The normative approach focuses on the political culture imbued in democracies, in particular principles such as respect for individual rights, tolerance, and limits on the use of violence. Externalizing such domestic norms to the foreign arena is expected to lead democracies to treat enemy prisoners in a more humane manner than nondemocracies, which do not tend to hold similar norms. In contrast, the institutional approach centers on the institutional attributes of democracies and their role in increasing the accountability of leaders to their public. Assuming that the public is concerned over the safety of their own troops both on the field and in captivity, and that leaders also in turn share these concerns, points to two main arguments for why democracies would be more likely to treat prisoners well. First, good treatment reduces the risks of retaliation by the adversary. If democracies are more sensitive to the costs of retaliation, then they should be more likely to take steps

to mitigate the downsides of reciprocity. Second, good treatment also provides certain strategic advantages that have the potential to end the war more quickly, with less carnage, and in the captor's favor. Humane treatment makes it more likely that enemy soldiers will choose the relative comfort and safety of captivity by surrendering rather than keep fighting on the battlefield. Acting in a more humane manner is thus not only morally beneficial, but also results in military advantages that can undermine the enemy's will to resist and continue waging war. Similarly, if democracies are more sensitive to the overall costs of war and face greater public scrutiny in its outcome, then they may correspondingly have a greater incentive to try and capture some of these strategic advantages.

This is not to suggest that both the reciprocity and strategic advantages mechanisms do not operate to varying extents in the case of nondemocracies. All states likely place at least a minimum value on the safety and wellbeing of their troops, and would also prefer to exploit any possible military advantages available. My argument is that the institutions of democracies make them relatively more sensitive to both of these mechanisms, which accounts for the observed tendency of democracies to treat their prisoners more humanely. The flipside is that in situations where these mechanisms do not operate as forcefully, then democracies may be just as brutal as their nondemocratic counterparts. A full explanation for the role of regime type must ultimately account for both the virtuous and the vicious cases of prisoner treatment by democracies.

The purpose of this chapter is to delve more deeply into the role of democracy by evaluating the relative strength of the normative and institutional approaches for understanding patterns of combatant abuse by democracies.¹⁴³ Many other factors,

¹⁴³ A separate institutional approach positing that democracies should actually be more likely to commit abuses was also presented in the theory chapter. However, since evidence for this expectation was

including cultural or racial differences, war aims, leadership personalities, among others, affect particular cases of democratic and nondemocratic belligerents alike, though perhaps to varying degrees. While accepting that a host of other factors help to shape prisoner policies, the narrower objective of this chapter is to assess the influence of normative versus institutional forces for understanding the role of democracy in limiting or contributing to the use of combatant abuse.

In exploring the relationship between democracy and combatant abuse, the chapter proceeds in the following five sections. The first section returns to the main quantitative data set on combatant abuse, but derives additional observable implications in order to differentiate between the normative and institutional explanations. The second section builds on the aggregate findings from the additional quantitative analysis by examining in greater detail the specific case of U.S.-British treatment of prisoners on the Western Front during the Second World War. Although other factors influencing the decision making of the U.S. and British leaders are also touched upon, the main purpose of the case studies is to ascertain whether these democratic leaders thought and acted more according to normative or institutional expectations.

In contrast to the relatively benevolent conduct toward prisoners over the course of the war, the third section turns to a darker side exhibited by the democratic belligerents during this period. I examine three additional areas of democratic abuse both during and after the Second World War, which have implications for understanding the motives underlying the conduct of democracies during armed conflict. These involve the treatment of Axis prisoners after the hostilities formally ended, the decision to forcibly repatriate Russian prisoners back to the Soviet Union,

generally lacking from the quantitative analysis of the causes of combatant abuse, this chapter focuses only on the two approaches that can account for the restraining effect of democracy.

and the targeting civilians. The fourth section questions the general restraining effect of democracy by examining several cases where democracies in fact committed high levels of combatant abuse. In particular, I argue that when the restraints of reciprocity break down, or the strategic benefits seem minimal, then democracies are much more likely to resort to combatant abuse. The fifth and final section then concludes by summarizing the main findings from the chapter and discusses some of the strengths, as well as limits, of democracy for improving the treatment of enemy combatants during times of war.

Based on the weight of the evidence across each of these sections, both approaches offer some interesting insights, but I find that the institutional approach provides a more convincing explanation for the conduct of democracies toward enemy combatants. Concerns over reciprocity and attention to the strategic benefits from good conduct, rather than attachment to domestic norms, appear to provide a better account of both the benevolent and sometimes more nefarious actions of democratic belligerents toward their prisoners.

Democracy, Norms, and Institutions: Some Further Quantitative Evidence

Democracies are less likely to commit combatant abuse, but what role do normative or institutional factors play in accounting for this democratic distinctiveness? One of the challenges involves finding observable implications that distinguish normative from institutional explanations for the conduct of democracies. Amassing data detailing the series of specific violations committed by each side would be a promising approach. The thought processes and considerations of democratic leaders when deciding how they should treat prisoners, or react to abuses by their adversaries, would provide a rich collection of material for parsing out the motivations driving democracies and other regime types during the conduct of war. Unfortunately, the availability of the necessary data, along with the time-intensiveness involved in

this type of coding endeavor, means such an approach is not feasible across a large number of cases. This does not imply, however, that more fine-grained measures than simply the overall level of combatant abuse by each belligerent across a given war cannot be developed. In particular, identifying which side commits the first violation and the subsequent conduct by the initial victim has the dual benefit of providing a further test of the general democracy result as well as several opportunities to potentially distinguish between the normative and institutional explanations.

The same data set is used as for the overall quantitative analysis, which involves combatant abuse across all interstate wars from 1898 to 2003. In a similar manner, the unit of analysis is the warring-directed-dyad, which means there are separate observations for each captor and captive state pairing. Data on the order of violations committed by each belligerent in a given war was collected alongside the main three-level categorical indicator for combatant abuse used in the earlier quantitative analysis. A dichotomous variable, “First violator,” was first created for each observation, which takes on a value of 1 if a state commits the first violation against an adversary, and 0 otherwise. Only violations that reach medium or high levels of combatant abuse are considered relevant when coding for first violator, since cases involving low levels of abuse either reflect no abuse at any point during the war, or relatively minor violations. The variable thus represents which state is the first to commit medium or high levels of abuse against enemy combatants.¹⁴⁴

In many cases determining the first violator is relatively straightforward. This is especially evident in instances where one side commits little or no combatant abuse at all. Since the United States treated Iraqi soldiers during the Persian Gulf War

¹⁴⁴ As in the quantitative analysis, only capable captors are coded for “First violator,” as well as for other variables discussed below. States deemed to be incapable captors are coded as missing and excluded from the analysis.

extremely well, while in contrast Iraq was quite brutal toward the prisoners that fell into its hands, by definition Iraq is considered the first violator during this war (Rowe 1993:196; Vance 2006:168). Wars where neither side moved beyond low levels of abuse, such as the 1969 Football War between Honduras and El Salvador, also mean by definition that neither can be the first violator since no significant violations took place (Anderson 1969:126-127). Even in cases where both sides resort to more serious levels of combatant abuse, it is often clear who committed the first violation. During the Second World War, German forces quickly overran French defenses during their initial blitzkrieg offensive. Records indicate the Germans were the first to mistreat prisoners and primarily at medium levels of abuse, although France later committed similar levels of violations against the more modest number of prisoners under their control (Durand 1987:25; de Zayas 1989:151). On the other hand, in some cases it is difficult to determine which state actually committed the first violation. In the 1911-1912 Italo-Turkish War both sides captured combatants in early battles and committed abuses against their prisoners (McCullagh 1912:140; McClure 1913:79-80). In such instances both sides are coded as 0 given that no single first violator can be definitively identified.¹⁴⁵

Both the normative and institutional explanations would expect democracies to be less likely to initiate the first violation. Democratic norms, such as nonviolence or respect for individual rights, suggest that democracies should be less likely to commit abuses and by extension instigate abuses in the first place. The greater institutionally-driven sensitivity of democracies to the costs of retaliation similarly implies that democracies should be less likely to instigate combatant abuse out of greater fears of reciprocity. A negative relationship between democracy and first violators thus does

¹⁴⁵ Coding both observations in these cases instead as 1 does not substantially change the results.

not distinguish between normative and institutional explanations, but is helpful in providing a further testable implication of the overall democracy finding. *Figure 8* below reports the results of a cross tabulation between regime type and whether or not a state is the first violator.

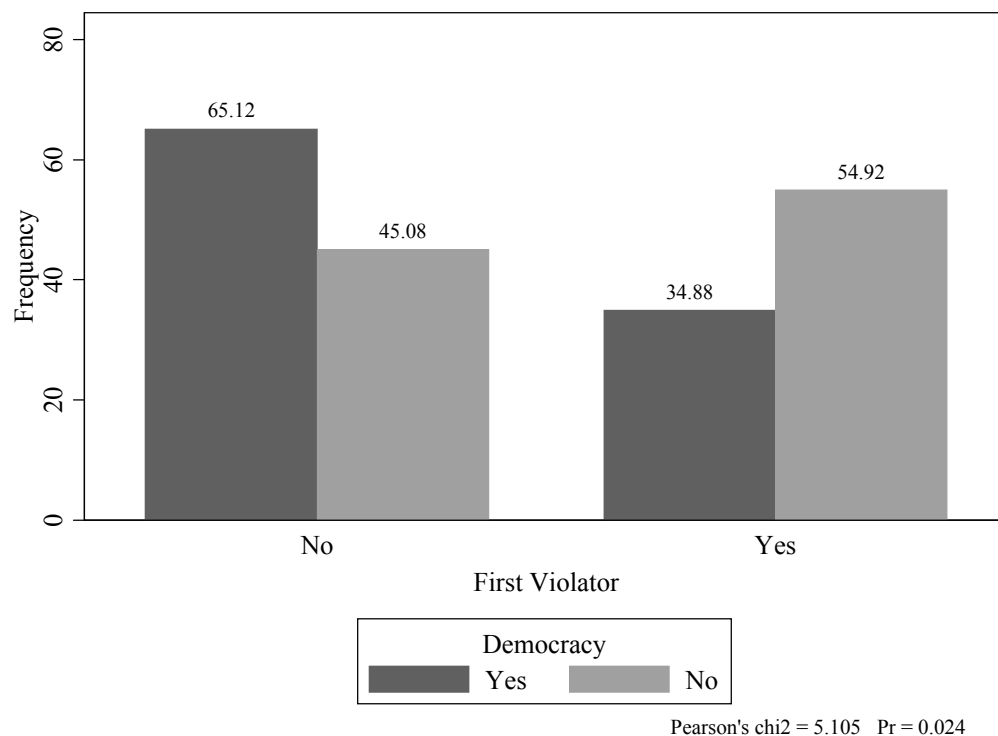


Figure 8: Relationship between democracy and first violator

The figure only includes cases where at least one side committed medium or high-level abuses. Cases where both sides limited themselves to low levels of abuse are excluded, since neither is considered as a first violator according to my definition.¹⁴⁶ The figure clearly shows that democracies are less likely to commit the first violation and the measure of association is statistically significant.¹⁴⁷ Only around

¹⁴⁶ If all wars are instead included, then percentage values change somewhat, but the overall negative relationship between democracy and first violations still holds.

¹⁴⁷ Since both variables are dichotomous, all measures of statistical association discussed below use Pearson's chi-squared test. This is instead of Kendall's tau-b used for the ordinal combatant abuse measure in corresponding cross tabulations from the previous chapter.

one-third of democratic belligerents are likely to strike first at prisoners in their control, while more than half of all nondemocratic belligerents commit the first instance of combatant abuse.

Even if democracies do not commit the first violation, a further implication of the democracy finding is that they should also be less likely to retaliate against abuses committed by the opposing side. According to the logic of the normative argument, constraints on the conduct of democracies during war are generated by domestic norms, which in many ways should be independent of the behavior of the adversary. Whether or not the opponent initiates abuses should not in and of itself affect a democratic belligerent's commitment to its domestic norms. In the case of the institutional explanation, democracies should still be less likely to reply in kind given that retaliation could lead to even worse abuses by the adversary, along with undermining the prospective strategic benefits to be gained from continued good behavior. Again, a lower likelihood of retaliation by democracies is consistent with both the normative and institutional explanations, but provides a further test of the general finding that democracies commit lower levels of combatant abuse.

In order to evaluate this proposition, I develop a dichotomous indicator "Retaliate" for all states that do not commit the first violation in a given war, which takes on a value of 1 if the victimized state subsequently commits either medium or high levels of combatant abuse, and 0 otherwise.¹⁴⁸ Figure 9 below shows a cross

¹⁴⁸ First violators are excluded since by definition they cannot simultaneously be in a position to retaliate against an initial abuse. Although I use the term "retaliate," this variable might also capture cases where both belligerents are responding to other incentives for combatant abuse, such as the severity of the fighting or war aims, but there is simply a lag between when each side begins to commit combatant abuse. This measure probably exhibits a greater level of noise, since it is likely picking up genuine cases where one side is retaliating against violations by the adversary, as well as those other instances where both sides might be acting independently but start to abuse prisoners at different points in time. The available data only makes it possible to determine the general time when each side began to commit violations rather than the specific motivation for doing so. The results for retaliation and later related variables thus must be considered with some caution. I thank Christopher Way for raising this

tabulation between regime type and retaliation. The results again indicate that democracies are less likely to retaliate against abuses committed by their opponent, and provide further support for the general constraining effect of democracy. Although significant in both statistical and substantive terms, the results point to a sobering finding, since even though democracies are less likely to retaliate they still do so in almost two-thirds of the cases. Nondemocracies of course retaliate at a much higher rate, but the figure points out that when one side commits combatant abuse it is not uncommon for the adversary to follow suit not long after irrespective of their particular regime type.

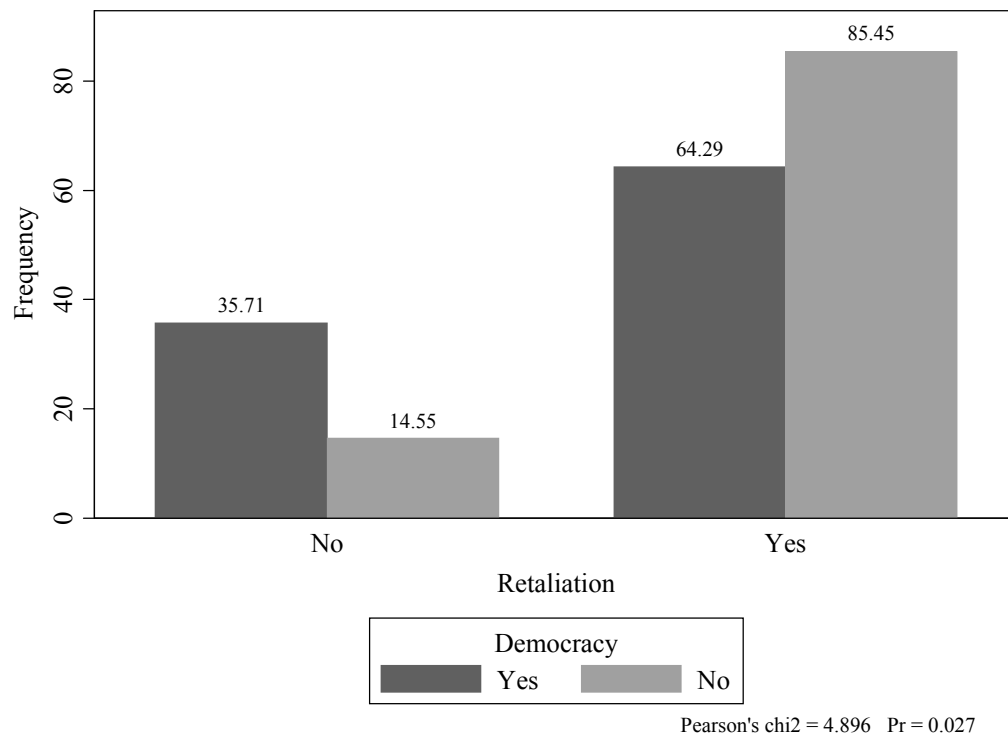


Figure 9: Relationship between democracy and retaliation

issue. Nevertheless, it should be noted that the historical cases considered later in the chapter, as well as the record for many other wars suggest belligerents are very cognizant of the conduct of their opponents and thus the prospects for retaliation.

Although a lower likelihood of retaliation is consistent with both the normative and institutional explanations, the level of the initial violation provides a potentially useful point for differentiating between the two approaches. Whether or not the adversary initiates medium or high levels of abuse, the normative approach still expects domestic norms to restrain democracies. Perhaps the force of these norms might weaken in the face of egregious acts of violence by the enemy, but on balance democratic norms should still limit the retaliatory impulses of democratic states. In contrast, one of the key elements of the institutional approach is that democracies shy away from combatant abuse out of fear this would lead to ever greater acts of abuse by the opposing side. If the other side is already committing the maximum levels of abuse, then this reciprocity incentive largely disappears. The material benefits from good conduct might still be present, but one of the main institutional restraints on democratic behavior is greatly weakened once the opponent starts committing high levels of abuse.

Examining the rate of retaliation by states responding to high levels of abuse by the first violator provides a clearer test of the relative explanatory power of the normative as opposed to institutional explanations. While a normative approach would still presume that democracy will have a restraining effect on the likelihood of retaliation against high levels of abuse, an institutional approach would expect this relationship to be nonexistent or weak at best. “Retaliate (against high abuse)” is a dichotomous variable that takes on the value of 1 when a state retaliates against an adversary that initiates high levels of abuse and 0 if it does not. As Figure 10 below indicates, although democracies are still less likely to retaliate against high levels of abuse than nondemocracies, the effect is weaker than in the previous figures and no

longer statistically significant.¹⁴⁹ The weak relationship between regime type and retaliation in this case appears to be more consistent with an institutional rather than normative explanation.

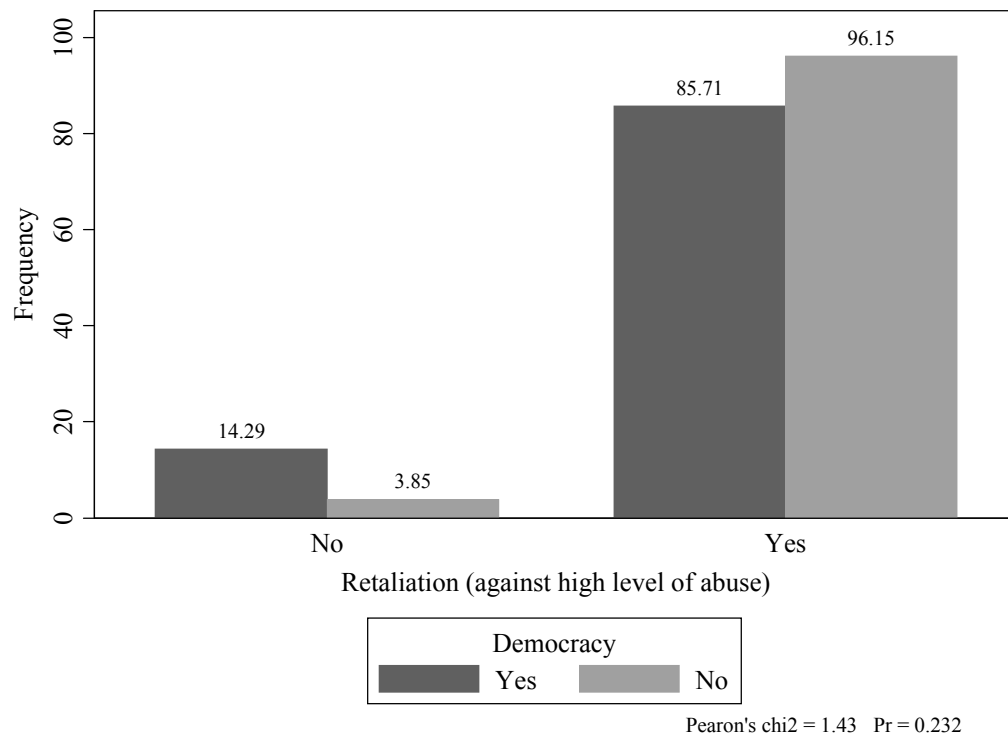


Figure 10: Relationship between democracy and retaliation against high levels of combatant abuse

Beyond the question of retaliation there are other issues where the normative approach does not offer clear expectations compared to an institutional approach. In one sense the normative account views combatant abuse as fundamentally inconsistent with internal democratic norms of nonviolence, tolerance, and respect for individual rights. This leads to a general expectation that democracies will be extremely reluctant to engage in combatant abuse. On the other hand, translating the normative account

¹⁴⁹ The cases of democracies not responding to high-level violations by the adversary are Great Britain against Turkey during the First World War and the United States against Iraq during the 1991 Persian Gulf War. The only case of a nondemocracy not responding to high-level violations also occurred during the Persian Gulf War, but involved Saudi Arabia against Iraq.

from the democratic peace to the conduct of war might instead suggest that domestic norms should have little effect on wars between democracies and autocracies, which concerns all conflicts involving democracies in the data set, since it is widely accepted that no two democracies have fought a war against each other. If autocracies cannot be trusted because of their own internal attributes, then this might in turn lead democracies to put aside their own liberal norms when facing these foes during war (Russett 1993:33).¹⁵⁰ Taken together, this poses a problem for a normative approach to provide clear expectations regarding the patterns of abuse that democracies do end up committing. For instance, it is difficult for a norms-based argument to explain whether democracies would refrain from escalation in the sense of limiting themselves to equal or lower levels of abuse than their adversary, or whether they might in fact be more likely to escalate.

In contrast, a non-escalatory dynamic is largely consistent with an institutional explanation. By limiting themselves to similar or lower levels of abuses compared to their opponent, democracies can increase the likelihood through reciprocity that the opponent would not choose to resort to even higher levels of abuse. On the other hand, retaliating at any level will likely reduce the total strategic advantages gained through good conduct, but those advantages remaining will still be greater if the democracy does not escalate.¹⁵¹ The relative propensity of states toward escalation based on

¹⁵⁰ In his study of democratic foreign policy Doyle refers to Hume's notion that democracies often exhibit "imprudent vehemence" when dealing with outside powers and that these tendencies are heightened when facing nondemocratic adversaries (Doyle 1983:323-325). Restraints on the use of violence against enemy combatants may in turn lose much of their force in such circumstances. Though Russett acknowledges that democracies may still differentiate between the leaders ruling autocratic regimes and their subjects (Russett 1993:33). However, even in this case it might be expected that normative restraints against combatant abuse may operate less strongly, since the subjects being held prisoner were also engaged in carrying out violations against democratic soldiers.

¹⁵¹ The potential strategic advantages coming out of prisoner treatment are partly a function of the adversary's conduct as well. This is based on the balance of soldiers from each side who would prefer to surrender rather than continue fighting. If a democracy chooses to engage in combatant abuse, but the adversary commits higher levels of abuse, then the democratic belligerent could still gain some advantages. These advantages would certainly be less than if it committed no abuses at all, since fewer

regime type is thus in many ways more consistent with an institutional explanation, but less evident from the point of view of a normative approach.

An ideal test of whether or not democracies are less likely to escalate the level of combatant abuse would be to trace possible back-and-forth violations between belligerents across various wars. Again, this unfortunately is not feasible for a large number of cases. However, if democracies are less likely to commit escalatory levels of abuse, then this should be reflected in the main measure of combatant used in the preceding analysis. “Escalate” is a dichotomous variable that takes on a value of 1 if a state commits a higher level of abuse than its opponent, and 0 if it commits the same or lower level of abuse.¹⁵² Figure 11 below reports results from the corresponding cross tabulation. Democracies are indeed less likely to escalate overall than nondemocracies, though the level of statistical significance is more modest at around ten percent.

enemy soldiers would likely surrender, but the democracy would likely be assured that even fewer of its own soldiers would surrender because of the even higher level of abuse committed by the adversary.

¹⁵² The results do not change substantially if the sample is limited only to those states that actually committed medium or high levels of abuse.

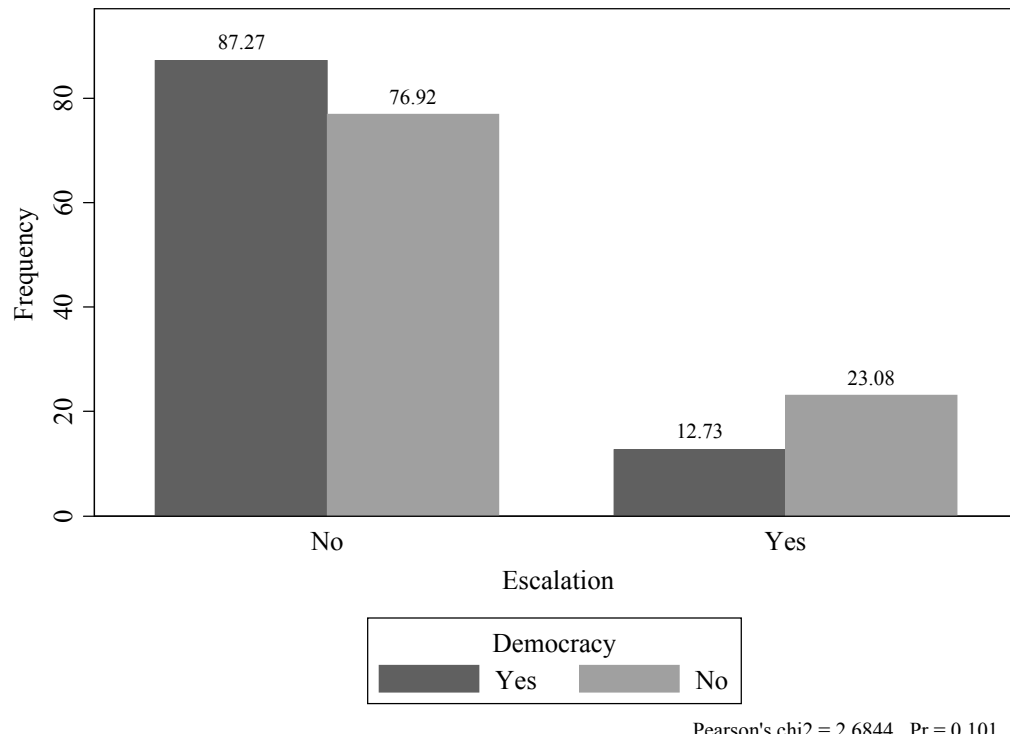


Figure 11: Relationship between democracy and escalation

According to the institutional logic democracies should also be less likely to escalate when retaliating against first violations due to similar reasons as outlined above for the general phenomenon of escalation. For instance, if an adversary first commits medium-level abuses, then retaliating with high-level abuses completely negates the possible benefits from good conduct and increases the risk that the adversary will also raise its abuses to higher levels in kind. Avoiding retaliatory escalation appears to be more consistent with the institutional approach, while is still more problematic for a normative perspective because of several possibly different expectations. In order to test this proposition, “Retaliatory escalation” is a dichotomous variable that takes on a value of 1 if a state commits a higher level of

abuse in response to the level of abuse from an adversary who committed the first violation, and 0 otherwise.¹⁵³

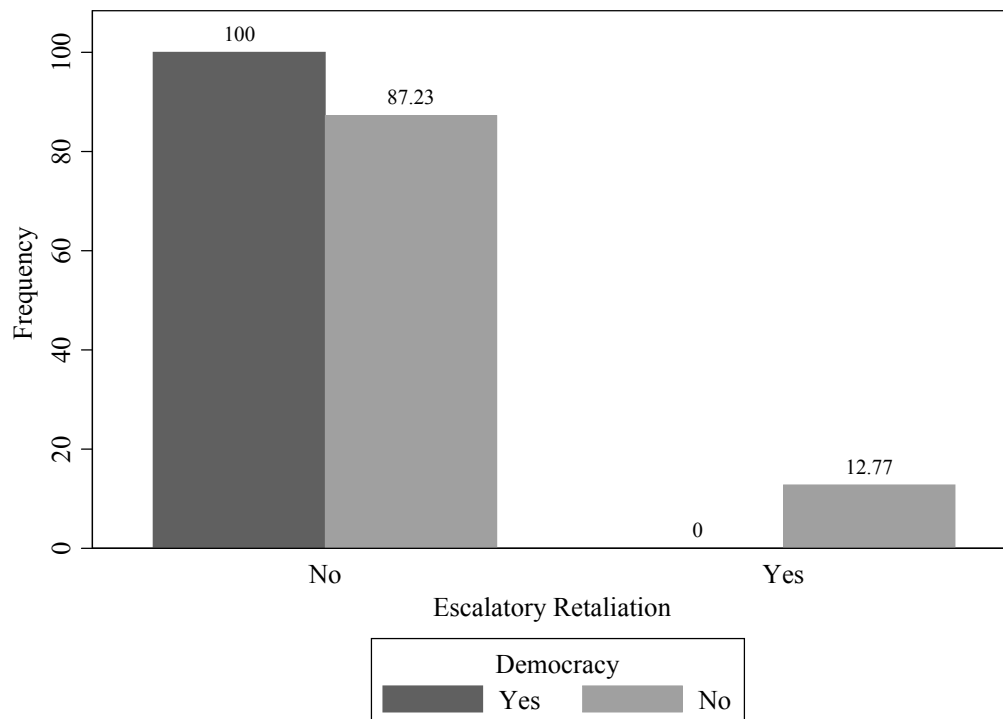


Figure 12: Relationship between democracy and escalatory retaliation

As is evident from Figure 12 above, there are no cases in the data set of democracies engaging in escalatory forms of retaliation.¹⁵⁴ Escalatory retaliation is in fact fairly rare in general, which suggests that those states that decide to initiate combatant abuse by committing the first violation are also likely to engage is

¹⁵³ Since combatant abuse is a three-level ordered variable, “Retaliatory escalation” only takes on a value of 1 when the first violator commits medium levels of abuse and the state in question retaliates by committing high levels of abuse.

¹⁵⁴ In contrast, there are six cases of nondemocracies engaging in retaliatory escalation. These are: Yugoslavia against Bulgaria in the Second Balkan War, Turkey against Bulgaria in the Second Balkan War, Russia against Germany in the First World War, Romania against Austria-Hungary in the First World War, and Romania against Germany in the First World War. The lack of any cases of democracies engaging in escalatory retaliation is problematic for computing a measure of association, since one of the assumptions for Pearson’s chi-square is that there are no empty cells. Therefore, no Pearson’s chi-square statistic is reported in Figure 12. However, other measures, such as Fisher’s exact test ($p = 0.07$), suggest the relationship is significant at least at a level of ten percent or lower.

comparable or higher levels of abuse overall. However, it is indicative of the influence of regime type that the only states in the data set that have engaged in retaliatory escalation were nondemocracies.

The results from the five tests for the normative and institutional approaches discussed above are summarized in Table 23 below. The first two tests point to the same expected behavior for democracies under either the normative or institutional explanation. Although the pair of tests cannot distinguish between the relative role played by either normative or institutional factors, they are helpful in providing further support for the validity of the overall democracy finding. The third test involving retaliation against higher levels of abuse provides a better opportunity to differentiate between the two approaches and is more consistent with an institutional perspective. The last two tests concerning escalation have less discernable implications from the normative explanation, but both follow expectations derived from the institutional approach.¹⁵⁵

Table 23: Summary of tests for normative and institutional explanations for the restraining effect of democracy on combatant abuse

Outcome	Expected effect of democracy		Actual effect
	Normative approach	Institutional approach	
First violator	-	-	-
Retaliation	-	-	-
Retaliation (against levels of abuse)	-	0	0
Escalation	?	-	-
Retaliatory escalation	?	-	-

¹⁵⁵ It should also be noted that all five of these bivariate relationships between regime type and state conduct toward prisoners generally continue to hold when subjected to more rigorous analysis which incorporates confounding factors and other control variables. The finding for escalation is the weakest statistically, but is still in the expected direction that democracies are less likely to escalate overall.

In sum, additional testable implications based on the quantitative data concerning the causes of combatant abuse during interstate wars provide further support not only for the general restraining effect of democracy, but in particular for the greater explanatory power of the institutional rather than normative approach. One of the limits of this data is its aggregate nature, which means that each test is more of an indirect evaluation of the normative and institutional forces underlying the conduct of democracies during war. The results from this supplementary quantitative analysis, therefore, should only be taken as suggestive of the relative role of institutional factors in explaining democratic treatment of enemy combatants. A complementary strategy is to examine in greater detail actual historical cases involving the conduct of democracies toward prisoners during war to determine what role norms or institutions played in explaining their behavior.

The purpose of the case studies that follow is to examine in a more direct manner whether leaders in democracies thought and acted more according to the expectations of a normative or institutional explanation when deciding how to treat captured combatants. According to the normative side, it should be expected that political and military leaders would think and make their arguments for good prisoner treatment in terms of upholding traditional democratic principles of nonviolence and respect for the individual rights of their prisoners as persons inherently deserving to be protected. On the other hand, an institutional approach would expect democratic conduct to be guided more by concerns over retaliation by the adversary along with the strategic benefits that could be gained from good treatment. The two approaches are by no means mutually exclusive. A state could be primarily motivated by normative considerations, but still be more than happy to reap the strategic advantages from good conduct. However, by examining the available qualitative evidence in a more in-depth manner than is possible through aggregate quantitative data, the

objective of the case studies is to evaluate whether normative or institutional factors provide greater leverage for understanding the overall motives and patterns behind the conduct of democracies toward enemy combatants.

The case studies that follow focus on the prisoner policies of the two main democratic belligerents, the United States and Great Britain during the Second World War across all fronts, but with a focus on the Western European Theater. These cases were selected for a number of reasons. The war was an all-out conflict of almost unparalleled severity lasting over five years and resulting in the deaths of millions of soldiers and civilians. Considering the importance of the second component of the theoretical framework regarding the nature of the bloodshed, the war in many ways is a tough test for the effect of regime type on the conduct of the democracies toward their prisoners. The cases also present a difficult test, since the democratic powers were facing notorious fascist adversaries during this war, whether in Europe or the Pacific, and expectations of reciprocity were likely already quite low.

The cases also provide some interesting sources of variation in the treatment of prisoners both across different fronts as well as over time. This allows for a chance to assess the conditions under which the restraining effects of democracy are more or less likely to operate. Finally, from a more pragmatic point of view the historical record associated with these cases also provides a valuable opportunity for identifying the relative role of normative and institutional factors. Alongside the enormous secondary literature on prisoner policies during the Second World War, there is an impressive array of primary documents, personal memoirs, and other sources necessary for determining the precise motivations and logic which drove the decision making of the democratic leaders over how to treat enemy combatants during the war.

World War II in Europe: Britain, the United States, and the Treatment of Axis Prisoners

The Second World War was unprecedented in its scope and brutality. Millions of troops from countries around the world were mobilized to fight on distant and often bloody battlefields. With so many soldiers on the frontlines, the most common fate was either dying in the heat of battle or surrendering and becoming a prisoner of war. Surrender often brought its own hardships, which ranged from the worst-case scenario of death during captivity to the best-case of imprisonment until the end of the war.¹⁵⁶ Table 24 below summarizes the number of prisoners taken and their relative death rates in captivity for several of the main belligerents from the war.

*Table 24: Examples of prisoners captured and death rates during World War II*¹⁵⁷

Captor	Victim	Number of Prisoners	Death Rate in Captivity
Germany	Soviet Union	5,700,000	58%
Soviet Union	Germany	3,155,000	36%
Soviet Union	Japan	600,000	10%
Japan	U.S./U.K.	76,000	25-33%
U.S./U.K.	Japan	50,000	< 1%
U.S./U.K.	Germany	1,000,000	< 1%
Germany	U.S./U.K.	240,000	4%

All sides captured large though varying numbers of enemy combatants, but what is truly startling is the wide range of death rates across captor states. Even these numbers are an understatement of the true extent of combatant abuse, since they only

¹⁵⁶ There were some exceptions involving the transfer of prisoners back to their home country before the war ended, but this was normally reserved for particularly ill or wounded soldiers. Although several thousand prisoners benefited from the handful of exchanges between the Western Allies and Germany, for the vast majority of prisoners during the war this possibility was nonexistent (Vance 2006:334-336).

¹⁵⁷ Figures in the third column represent estimates for the total number of enemy combatants captured during the war. Surrenders that occurred after the war ended were excluded when possible. Figures were based on the following sources (Forster 1986:21; Hata 1996:263; Overy 1997:355; Bartov 2001:153; Morrow 2001:984; Ferguson 2004:163-186; Vance 2006:458-472). Italy was one of the other major belligerents during this war, but precise figures on prisoner death rates in Italian prison camps could not be located.

include deaths that resulted once a soldier reached the prison camps rather than those who were summarily executed on the battlefield. The fortunes for prisoners falling into the hands of an autocratic belligerent were quite dire. On average, around 46 percent died in captivity with the worst being German treatment of Russian prisoners where 58 percent perished after surrendering, which totaled to more than three million individual soldiers (Forster 1986:21).¹⁵⁸ There are also some impressive differences in conduct amongst the autocracies, in particular between German treatment of prisoners on the Eastern versus Western Fronts. Racial and ideological factors are evident in accounting for this difference, but a number of other factors contributed as well, including Germany's different war aims on the two fronts, the relative severity of the fighting, and reciprocal dynamics. These differences are certainly worthy of further study, but the purpose of this chapter is not to adjudicate between a wide range of competing factors for explaining the conduct of belligerents in general, but rather to investigate the ways in which democratic norms and institutions shape the treatment of prisoners.

Despite some of these differences on the autocratic side, those soldiers fortunate enough to surrender to the democratic powers fared much better with only around one percent unable to return home at war's end. With hundreds of thousands of Axis troops falling into Allied hands as the war wore on, the sheer logistical difficulties of feeding and clothing the growing masses of prisoners mounted. In the week ending May 5, 1945, just three days before the official German surrender in Western Europe, the United States Army alone was distributing 1,751,513 food rations daily to enemy prisoners (Ross and Romanus 2004:530). The extent to which

¹⁵⁸ The percentage of prisoner deaths across all autocracies was based on the average death rates from Table 24 for autocracies (i.e. excluding U.S./U.K. captor observations), which were then weighted by the total number of prisoners taken.

resources were allocated to prisoner care is reflected by the fact that rations destined for prisoners made up 30 percent of the total food rations the U.S. Armed Forces issued for other groups, such as their own troops and allies on the Continent.¹⁵⁹

Many Axis soldiers who first surrendered to U.S. or British forces were eventually transferred to camps in the United States proper. With greater space and resources, the comforts of prison life in these camps were in many ways better than those in the European theater. Taken as a whole, the conduct of the United States and its democratic allies has even been described as “the pinnacle of the historic development of prisoner protection” (Krammer 2008:40). It is not surprising that many Germans prisoners later described their time during captivity in the United States as “wonderful years” and “the experience of their lives” (Krammer 1979:xv).

Praises of this magnitude should not overshadow the reality that U.S. and British abuses still occurred, especially on the Pacific Front against Japan (Dower 1986:61). As Dower and others have argued, race certainly played a role in the treatment of enemy combatants during the war. As the relative death rates of German and Japanese prisoners at the hands of the United States reported in Table 24 above makes clear, however, there were ultimately as many similarities as differences in U.S. prisoner policies across both fronts. Abuses generally remained isolated and largely initiated by individual or small groups of soldiers rather than reflecting orders from the highest-level authorities.¹⁶⁰ For instance, the worst incident in a prison camp on the

¹⁵⁹ Calculations based on figures from Table 16 in (Ross and Romanus 2004:530). Food resources for prisoners in fact dwarfed those for U.S. allies by a ratio of almost 5:1.

¹⁶⁰ The frequency and severity of violations does indeed appear to have been greater in the case of U.S. conduct on the Pacific Front in comparison to Western Europe. This was most likely in part a function of reciprocity, since much higher levels of abuse were committed by Japanese forces against U.S. prisoners compared to the German Wehrmacht. As the war continued U.S. practices in the Pacific generally trended toward the relatively better treatment of German prisoners, which cautions against ascribing U.S. policy purely to racial motives. Nevertheless, race and other issues of identity should not be disregarded in either case. For instance, later research has shown how the level of identification the United States assigned to the European and Asian regions, of which Germany and Japan were

U.S. homeland occurred when a deranged guard opened fire with a machine gun on tents housing German prisoners in Utah with the result that nine were killed and another nineteen wounded (Powell 1989:223-225). Importantly, it should be noted that the guard was quickly punished, since U.S. authorities wanted to make sure such incidents were roundly condemned and not viewed as government policy.

Incidents of this sort were certainly regrettable, but pale in comparison to some of the abuses committed by autocratic belligerents, where it was not uncommon for Germany to summarily execute hundreds of Russian prisoners on the spot (Bartov 1991:83). Even in the case of the Western Front, Germany later issued the so-called Commando Order (*Kommandobefehl*), which mandated that Allied prisoners be summarily executed if they were engaged in missions German authorities deemed to be of an irregular or subversive nature, irrespective of the fact that these soldiers still qualified as prisoners deserving of all regular rights under international law.¹⁶¹

What appears to have influenced the decisions of the United States and Great Britain to restrain themselves when dealing with enemy combatants? A normative approach would lead to the expectation that democratic leaders were influenced by prevailing domestic norms of tolerance, restraints on violence, and a general respect for individual rights. If this were the case, then the evidence should point to leaders frequently referring to these domestic principles when deciding what to do with prisoners under their control. On the other hand, an institutional approach would

respective members, greatly shaped U.S. foreign policy in both regions (Hemmer and Katzenstein 2002:587-588).

¹⁶¹ An excerpt from the order makes clear the tension between the legal rights of commando prisoners under international treaties versus the contempt for them held by the German leadership: “all enemies on so-called Commando missions in Europe or Africa challenged by German troops, even if they are to all appearances soldiers in uniform or demolition troops, whether armed or unarmed, in battle or in flight, are to be slaughtered to the last man... Even if these individuals, when found, should apparently be prepared to give themselves up, no pardon is to be granted to them on principle.” Quoted in (Vance 2006:92).

emphasize the importance of concerns over reciprocity and how good conduct could improve their side's chances to win the war in a timelier and less costly fashion. In general, the historical record appears to offer greater support for the institutional rather than normative approach. The role of institutional incentives is evident by examining the sensitivity of the democratic belligerents to reciprocity and strategic benefits from good conduct, each of which will be discussed in turn.

Reciprocity

Once Germany had cemented its control over the European Continent by the end of June 1940, an uneasy yet mutually beneficial equilibrium in prisoner affairs developed on the Western Front between Germany and Italy on the one hand, and Britain on the other, which was later joined by the United States. Given the large-scale victories early on by the Axis powers, the Western Allies were particularly concerned over the risks of retaliation given they held many fewer prisoners than their adversary. Even as the tide of the war turned in the Allies' favor, and with it growing numbers of Axis prisoners, the democratic powers remained extremely sensitive to the effects of their treatment of Axis prisoners on the corresponding fate of Allied soldiers in enemy hands.

Worries within both the public and the military over the treatment of U.S. prisoners once behind enemy lines became a major issue for the government throughout the war. Putting forward one of the primary rationales for the U.S. practice of properly caring for German prisoners, Brigadier General R.W. Berry of the War Department General Staff stated plainly this policy meant "our boys over there [i.e. Germany] were better treated as prisoners than they otherwise would have been" (Committee on Military Affairs 1945:4). Major General Archibald Lerch, U.S. Provost Marshal General and the main military official in charge of the POW system in the United States, stressed the stakes involved in committing combatant abuse by

declaring that “Any non-adherence by this government [to the 1929 Geneva Convention]¹⁶² probably would result in instant retaliation against American prisoners held in Germany” (Porter 1945:4). Lerch continued that “The War Department has an abundance of evidence which leads it to believe that our treatment of German prisoners of war has had a direct effect in securing better treatment of American prisoners in Germany” (Porter 1945:4).

U.S. officials were clearly aware of the twin role played by reciprocity in guiding their conduct toward German prisoners. In the first place, good treatment was more likely to be met in kind by German authorities. This was possible not only through direct actions taken by Germany to care for U.S. prisoners, but also by making it easier for relief agencies to gain access and be allowed to operate in German camps. The role of external agencies grew in importance, especially later on in the war as Germany’s infrastructure was devastated and supplies became increasingly scarce. One official from the American Red Cross noted that good U.S. conduct “has rendered a great service in enabling us to demand many things in hard-pressed, blockaded enemy countries which we might not otherwise have been able to obtain for our prisoners” (Committee on Military Affairs 1945:15).

The second darker side of reciprocity was a discernable fear among policy makers that abuses committed in U.S. camps would result in swift retaliation against American prisoners held by the Axis powers. The result was that U.S. authorities often interpreted obligations under the 1929 Geneva Convention in as strict a manner as possible in order to ensure Axis prisoners would be treated according to the highest standards. The generous level of care even led to periodic outcries in the American

¹⁶² This refers to the Convention relative to the Treatment of Prisoners of War, Geneva July 27, 1929, which was the main international treaty relating to prisoner issues in force during the Second World War.

media that enemy prisoners were receiving better treatment than regular U.S. soldiers in the field or citizens at home (Newsweek 1945b:58; Wittels 1945:18). Beyond the particular level of care, groups including labor unions protested against the use of prisoner labor, which they felt was crowding out legitimate work for U.S. civilians and depressing overall worker wages (Keefer 1992:69).¹⁶³ Part of the government's effort was thus devoted to convincing the public that U.S. prisoner policy was in line with the country's international obligations and to promote the view that good conduct was necessary for the public's broader concern over the safety of their own troops overseas (Committee on Military Affairs 1944:5-30).

Although consistent across different government agencies as well as non-governmental organizations, public pronouncements provide only indirect evidence of the importance of reciprocity in guiding U.S. conduct toward enemy combatants. Perhaps U.S. officials were in actuality primarily motivated by normative considerations, but chose to couch their policies in terms of reciprocity for public consumption. Even in this case, however, it is not clear why direct normative appeals would not be just as convincing, or even more so, if norms of nonviolence and individual rights embedded in democratic societies were the driving force behind U.S. conduct.

Private discussions amongst government officials provide a clearer though by no means perfect window into the motivations underlying the conduct of democracies during war. One incident in particular that highlights the relative role of normative versus institutional factors involved internal British discussions on prisoner treatment

¹⁶³ It should be noted that prisoner labor is entirely legal under international humanitarian law, so long as the work does not pose serious risks to the prisoner's health and safety, is not directly related to the war effort, and the prisoner is adequately compensated for their labor. For specific labor provisions prevailing during the Second World War, see Articles 27 through 34 from the 1929 Geneva Convention.

during the early years of the war. With Germany's quick defeat of France in six weeks from May to June 1940, Britain lost its foothold on the continent after the remnants of the British Expeditionary Force escaped at Dunkirk. While an air war continued to rage between the two sides, the main site for ground operations became North Africa where Britain used its colonial holdings as a launching point to challenge German and Italian dominance over the region. In the early period of the North African campaign, Britain was able to maintain its positions and frequently took modest numbers of Axis prisoners, whom it treated according to a decent standard of care. However, this policy quickly became tested.

In early 1941, Britain began to receive reports that Italy was ordering its soldiers to execute all captured members of the Free French Forces (FFL)¹⁶⁴ during battles in Libya and the surrounding area. The FFL were composed of remnants of the defeated French armed forces, which were not loyal to the German-backed French Vichy regime and thus nominally allied to Britain. When faced with this situation at a meeting with his Chiefs of Staff (COS) Committee, the British Prime Minister, Winston Churchill, immediately proposed that Britain should send 1,000 Italian troops to the FFL as what he termed "working capital" (Moore 2000:183).¹⁶⁵ The rationale was that by giving the French the capability to either threaten retaliation, or actually commit abuses in kind against Italian captives, Italy would be deterred from engaging in any future executions of captured FFL troops.

Whatever the merits of this plan, it does not provide much support for the view espoused by the normative approach that democratic leaders should be expected to externalize domestic norms of nonviolence and respect for individual rights when dealing with foreign adversaries. Even the very words Churchill chose to use indicate

¹⁶⁴ The acronym is based on the French term for these soldiers, the *Forces Françaises Libres* (FFL).

¹⁶⁵ It is unclear whether this proposal was ever initiated.

that Axis prisoners were perceived less as persons deserving of rights and respect, but rather as a commodity to be dealt with as Britain saw fit.

This was in many ways consistent with earlier opinions expressed by Churchill regarding the status of enemy prisoners. Before becoming prime minister in May 1940, Churchill served as First Lord of the Admiralty for the first months of the war. During his tenure he set forth the following policy to the Military Branch in an internal memorandum on October 15, 1939:

...it is our policy to capture and hold as prisoner the largest number of able-bodied enemy aliens capable of military service whom we can catch upon the seas. We must accumulate a *substantial stock* of German prisoners in case we may need to inflict reprisals because of German barbarity to our own prisoners of war. This will probably not be necessary; but I took great pains in the last war [referring to the First World War] to catch as many as possible because the Germans always behave much better when you have more of their men in your hands than they have of your. *And after all we want to help them to behave better* (emphasis added).¹⁶⁶

Besides betraying a rather condescending view of the German leadership, Churchill consistently displayed a very instrumental approach to enemy prisoners as assets to be exploited rather than individuals inherently deserving of respect. In his time with the navy, he even planned on using German prisoners as de facto human shields to protect British hospital ships from attacks during earlier naval operations in Narvik, Norway.¹⁶⁷ In this case Churchill appears to have been less worried about possible retaliation since the British navy had the upper hand at sea and his main concern was with British naval prisoners, which were few at the time. Once he became Prime Minister not long after, Churchill needed to take into account the impact of combatant

¹⁶⁶ Churchill, quoted in (Gilbert 1993:242-243).

¹⁶⁷ Note from Churchill to General Ismay, May 2, 1940 (Gilbert 1993:1185). Using prisoners in such a manner is contrary to Article 9 of the 1929 Geneva Convention, which states in part that "No prisoner may at any time be sent to an area where he would be exposed to the fire of the fighting zone, or be employed to render by his presence certain points or areas immune from bombardment."

abuse on the armed forces as a whole, and in particular public pressures over the safety of British prisoners.

Despite personal views on the relative worth of enemy prisoners, it is important to note that proposals like the 1941 plan to transfer Axis prisoners for coercive or deterrence purposes in response to the earlier Italian abuses were quickly shelved. The reluctance of engaging in abuses either directly, or by proxy through allies, appears to have been driven less by norms-based convictions, but more for reasons of reciprocity, which is closer to an institutional approach. Although Churchill was tempted to exact some revenge against Italy over the FFL executions, there was a palpable fear amongst the members of the COS Committee that any violation could result in retaliation against more than 50,000 British prisoners held by the Axis powers at that time (Moore 2000:183). Continued good conduct by Britain toward prisoners in this case appears to have been more the result of instrumental considerations over the safety of British troops held behind enemy lines rather than any inherent concern for the rights of Axis prisoners as an end in itself.

Over the course of the war Churchill in fact personally intervened on numerous occasions to ensure that the treatment of enemy prisoners remained at the highest standards (Ferguson 2004:153 fn.14). In personal correspondence, Churchill later revealed his interventions were primarily driven by fears of “a general counter-massacre of prisoners,” which he felt could easily be sparked by any British abuses.¹⁶⁸ Concerns over initiating the first violation were thus a function of prospective fears of retaliation rather than from a desire to remain consistent with domestic democratic principles.¹⁶⁹

¹⁶⁸ Personal minute from Churchill to Anthony Eden, British Foreign Secretary, July 30, 1944. Quoted in (Moore 2000:190).

¹⁶⁹ In general, far more information is available on the personal thinking of Churchill regarding prisoner issues compared to his fellow leader in the United States, Franklin Roosevelt. Part of this is simply

The pressures of reciprocity meant that both of the major democratic allies also preferred to maintain direct control over their prisoners rather than transfer them to third parties, who may not have had the same incentives to diligently care for the prisoners in their hands.¹⁷⁰ A continuing source of friction throughout the war was cooperation between Britain and the United States on the one hand, and the residual French forces of the FFL. Since France was defeated and occupied early on, it ceased to be an officially recognized belligerent state for much of the war.¹⁷¹

A complete explanation for the conduct of non-state actors like the FFL toward prisoners is beyond the scope of this study.¹⁷² Many elements nevertheless remain consistent with the overall logic of reciprocity presented above. As the case of the Italian-led executions makes clear, captured members of the FFL were systematically subjected to high levels of abuse by Axis captors. Levels of violence were exhibited on an even greater scale toward their fellow countrymen taking part in the French resistance in occupied and Vichy France (Durand 1984:540; Roberts 1994:132-133). Given that French fighters were already facing high levels of combatant abuse, there was little incentive to refrain from responding in kind against any Axis prisoners

because Churchill was a voluminous writer of the wars he witnessed and through his own memoirs. This was compounded by the sudden death of Roosevelt near the end of the war, meaning he never had a chance to produce any similar writings even if he had wanted to do so. Nevertheless, based on the available statements from other U.S. officials, as well as some of Roosevelt's own personal correspondence discussed at various points in the chapter, it appears both leaders shared a similar concern over the effects of reciprocity on the formation of prisoner policy.

¹⁷⁰ Though it should be noted that many Axis prisoners were transferred to camps in Allied countries, such as Canada, Australia, and New Zealand. However, these countries were also democracies and had their own troops in combat. They were thus likely to exhibit a similar sensitivity to the risks of retaliation should they have chosen to abuse Axis prisoners.

¹⁷¹ For instance, in the main quantitative data set introduced in Chapter 3, French conduct during the Second World War is only coded from France's entry into the war in September, 1939 until its defeat against Germany and Italy in June 1940.

¹⁷² The story of the FFL is also unusual, since French soldiers loyal to the Vichy regime were sometimes put in the awkward position of capturing and needing to guard fellow Frenchmen who were supporters of the opposing FFL. For a more complete discussion of the sometimes strange situation of intra-French prisoner diplomacy, see (Thomas 1996:87-88).

which fell into their grasp, which is consistent with the overall findings from Figure 10 presented earlier in the chapter.¹⁷³

Whatever the precise reasons for their abuse, the prospect of transferring prisoners to French forces remained a constant worry for Britain and the United States. British and U.S. prisoners were treated much better on the whole, but both belligerents realized the safety of their troops would be in jeopardy if they were seen to be actively handing prisoners off to the FFL to treat as the latter saw fit. Prisoner transfers involved a trade-off between military expediency and the risk of retaliation. Whether it was in North Africa, or later in France proper after the Normandy invasions, transferring prisoners was seen as an attractive option to U.S. and British leaders because it would relieve the burden on already scarce resources for the war effort (Keefer 1992:17-18). Several proposed transfers of prisoners to FFL camps were dismissed during high-level U.S.-U.K. meetings because of fears of retaliation against Allied servicemen held by the Axis powers. Some later transfers eventually took place, especially when huge numbers of German prisoners fell into Allied hands after the D-Day and subsequent offensives, but U.S. and British leaders incorporated explicit guarantees for the laws of war and monitoring requirements by Allied and ICRC officials into the transfer agreements. Through collective pressure the two main democratic belligerents were able to improve the conduct of French captors, though both powers still showed an overall preference for controlling their own prisoners when possible (Moore 2000:187-194).

Despite their best efforts, good conduct by the United States and Britain could not provide a surefire guarantee that their own troops would be treated accordingly. In

¹⁷³ As a sign of the poor conditions in French-controlled camps, many Italian prisoners sought to escape not with the aim of returning to their own lines but rather to gain entry to U.S. facilities (Moore 2000:186)!

part this was because Nazi Germany was less sensitive to the potential costs of retaliation since the government was not subject to the same degree of public pressures as its democratic counterparts.¹⁷⁴ As the war gradually shifted in the Allies' favor Germany became increasingly willing to abuse prisoners, especially those attempting to escape, as an example to other prisoners along with troops in the field, but also to deter millions of foreign workers from any thought of rebellion (Moore 2000:189). Although never coming close to approaching the horrific treatment of prisoners on the Eastern Front against the Soviet Union, German treatment of U.S. and British prisoners was punctuated by several episodes of violence.

The ways in which the Western Allies chose to respond provides further support for the role of reciprocity and an institutional account of the conduct of democracies during war. Both the United States and Britain generally refrained from retaliating against German abuses, but the reasons for this restraint were more a function of the fear that any retaliation would simply result in an escalating cycle of violence by Germany. For instance, when a report surfaced that 50 prisoners were executed after escaping from the German camp *Stalag Luft III* in March 1944, Britain seriously considered reprisal executions, but rejected the idea as counterproductive to the safety of the remaining British soldiers in German custody (Bower 1981:82-83). In a similar manner, the United States decided to refrain from retaliating in kind against German abuses later in the war out of concern that this would only endanger those U.S. prisoners still in German captivity (Newsweek 1945a:21).

¹⁷⁴ It should be noted that many scholars counter that Nazi Germany was actually more sensitive to general societal pressures compared to its democratic adversaries during the Second World. However, more recent research has argued that Germany was indeed able to call forth far greater sacrifices from its population and was less concerned about any possible public backlash. For a summary of this debate, see (Reiter and Stam 2002:121-124).

In personal correspondence between the two democratic leaders, Churchill and Roosevelt recognized that as the tide was turning against Germany, their adversary had a diminishing incentive to continue caring for Allied prisoners and could become desperate enough to inflict whatever damage it could on Allied troops, even if that meant combatant abuse.¹⁷⁵ Both leaders preferred to issue direct warnings that German officials would be held personally responsible for war crimes should any abuses be committed against Allied prisoners. As they asserted in a joint statement publically released across Germany, “Any person guilty of maltreating or allowing any Allied prisoner of war to be maltreated, whether in the battle zone, on the lines of communication, in a camp, hospital, prison or elsewhere, will be ruthlessly pursued and brought to punishment.”¹⁷⁶ Along with the continued role of reciprocity, this added danger of personal indictment in war crimes trials after the war is widely argued to have played a key role in deterring more extreme levels of German abuse against Allied prisoners (MacKenzie 1994:495-496).

Concerns over reciprocity thus appear to have greatly constrained the willingness of the democratic belligerents to initiate combatant abuse, or even to retaliate against abuses committed by their German adversary. Reciprocity-related motives were driven largely by the greater sensitivity of British and U.S. leaders to preserving in any way possible the safety of their own troops, which they believed centered on maintaining proper treatment of Axis prisoners in turn. In contrast, normative considerations were for the most part absent from the decision making process, or at best secondary to the attention devoted to the risks of retaliation.

¹⁷⁵ Letter from Churchill to Roosevelt, March 22, 1945 (Loewenheim et al. 1975:681-682).

¹⁷⁶ Excerpt from original text of telegram from Churchill to Roosevelt, dated March 22, 1945. Quoted in (Kimball 1984:582).

The Strategic Benefits of Good Conduct

Beyond the risks of retaliation, one of the other reasons the democratic powers often refrained from retaliating against German abuses during the war was the belief that humane conduct provided additional strategic rewards on the battlefield. Properly treating prisoners could increase the propensity of those enemy combatants still on the battlefield to surrender. Facing these choices, soldiers would be more likely to calculate that they were better served by laying down their arms and going into captivity rather than risking death by continuing to fight (Ferguson 2004:149-152). The argument that democracies capitalize to a greater extent on the advantages of good prisoner treatment is also consistent with the more general finding that democracies are more likely to win the wars they fight, especially in a quicker and less bloody manner, than other regime types (Reiter and Stam 2002:165). If good treatment can induce enemy soldiers to surrender, then this would promise to shorten the war and reduce the overall number of casualties suffered by the democratic belligerent.

Attention to the benefits of good conduct is also in part a function of the restraints imposed by reciprocity on democracies, since democratic belligerents are already predisposed toward more humane treatment of prisoners because of greater fears of retaliation as discussed in detail in the previous section. Although related, the precise logic underlying the strategic benefits from good conduct differs from that for the role of reciprocity. Since democracies have been found to be more likely to prefer to win their wars quickly and with fewer casualties, the strategic benefits derived from good treatment should be relatively more attractive to democracies than their adversaries (Reiter and Stam 2002:66, 164). Despite differences in the emphasis of the reciprocity and strategic benefits mechanisms, both view the predisposition of democracies towards the humane treatment of prisoners more as a means to achieving

broader ends, which is the assumption underlying an institutional approach, rather than as an end in and of itself as put forward by a normative account.

From a strategic point of view, refraining from abuse involves certain trade-offs. The coercive potential of combatant abuse is removed from the table, along with other benefits, such as an exploitable pool of slave labor or devoting less resources to properly care for prisoners. Against these potential drawbacks, the Western Allies consistently stressed the benefits to be gained from good treatment in undermining the morale and ability of the enemy soldiers to continue fighting rather than surrender. Even if good conduct in the end produces few tangible strategic advantages, what ultimately matters from the point of view of prisoner policy is that the democratic belligerents believed such conduct would be effective. Belief in the value of humane treatment is evident in the remarks of those officials most directly involved in implementing prisoner policies on the ground. One POW camp commander, Lieutenant Newton Margulies, remarked that it is “eminently more sensible, and really more clever, to win our war with butter and beefsteaks instead of bullets and bombs” (Margulies 1945:478). Along with encouraging Axis soldiers to surrender, Margulies noted further benefits to the United States from good treatment even after the prisoners were in custody. Despite a small segment of hardcore Nazi believers, prisoners on the whole were fairly content with their time in captivity. This meant that escapes and riots were less frequent, reducing the security needs for camps and allowing more troops to be allocated directly to the warfronts in Europe and the Pacific (Margulies 1945:478-479).¹⁷⁷

¹⁷⁷ This is not to dispel the notion that escapes remained a concern at all camps, which both the Axis and Allied powers had to deal with on a constant basis. Furthermore, although compliant prisoners definitely could reduce the security needs at individual camps, the growing number of surrenders as the war progressed meant that additional guards were required. By the middle of 1945 there were 47,000 troops assigned to guard duty at prisoner camps in the continental United States alone (Committee on Military Affairs 1945:10).

At the end of the war, the U.S. Congress convened a committee to investigate the overall Allied war effort. One of the studies focused in particular on the nature, scope, and effects of the country's policy toward enemy prisoners. After receiving testimony from all the branches of the Armed Forces, the Department of State, and a host of other agencies, the Committee offered the following conclusions regarding the the contribution of U.S. prisoner treatment to the overall war effort:

Commanders abroad have stated that reports reaching German soldiers to the effect that we are treating prisoners fairly, in spite of what their officers told them, were a great factor in breaking down the morale of German troops and making them willing, even eager, to surrender. So pronounced was this effect that General Eisenhower had safe-conduct passes dropped by the millions over enemy lines, promising treatment in accordance with the provisions of the Geneva Convention. *Had these promises not been true, and believed, victory would have been slower and harder, and a far greater number of Americans killed* (emphasis added). (Committee on Military Affairs 1945:19)

It is also important to note that the Committee was well aware of both the strategic and reciprocal benefits gained through good conduct. Referring to the fewer number of U.S. soldiers killed as a result of humane treatment, they explicitly included not only those lives saved on the battlefield by shortening the war, but also those saved behind barbed wire by reducing the risks of retaliation by the adversary (Committee on Military Affairs 1945:3).

An interesting implication from the italicized portion of the above quotation was that the truthfulness of the promise to properly treat enemy prisoners was not sufficient in and of itself to encourage opposing combatants to surrender. In order to capture the strategic benefits from good conduct, democratic belligerents also had to make their commitments known to enemy soldiers and, even more importantly, those soldiers also needed to believe the democracies would indeed uphold their promises.

How the democracies chose to communicate and convince their preferences and practices to enemy soldiers became in many ways just as important for grasping

the strategic benefits from humane conduct as the policy itself. The use of propaganda to encourage enemy soldiers to surrender became an integral component of the Western Allies' overall strategy for winning the war. The United States and Britain created a joint organization, the Psychological Warfare Division (PWD) under the umbrella of the Supreme Headquarters Allied Expeditionary Force (SHAEF), for coordinating and conducting all propaganda campaigns against German troops in the Western European Theater during the war. While the mission of SHAEF was conceived primarily in military terms as "the destruction of Germany's armed forces," PWD viewed its particular contribution to this overall mission as "to destroy the fighting morale of our enemy both at home and on the front" (Lerner 1981:43).

PWD's emphasis on such a nebulous concept as "morale" left much to be determined, but by focusing on the war front as well as Germany's home front it was clear that Allied propaganda was intended to target both German soldiers and civilians. Even when examining solely the combatant side of operations, undermining morale could involve a host of effects, including surrender, desertion, insubordination, or weakened fighting at the tactical level. Nevertheless, it is indicative that despite this broad mandate a post-war survey of officials associated with the Allied propaganda program found that a large number of respondents described PWD's primary mission as, "To induce surrender".¹⁷⁸ Plans for encouraging enemy surrenders were not peripheral to military planners, but became a core instrument in the greater war effort.

¹⁷⁸ The surrender response was the second most popular choice among a list of options offered to the question, "How would you describe the mission of Sykewar [i.e. PWD] in Europe during World War II." The most popular option was "To *weaken* enemy will-to-resist (emphasis in original)." However, the choices were clearly not mutually exclusive since inducing surrender is in many ways a corollary to weakening enemy resistance. In light of the fact that a wide range of options were offered, such as controlling enemy civilian populations or presenting Allied war aims, the widespread support for the role of surrender at least suggests that it played a prominent role in PWD planning and operations.

In order to achieve this aim, the Allies constructed an enormous organizational apparatus to develop, produce, and disseminate propaganda materials to the enemy population. Germany was a particularly difficult target because the Nazi regime maintained a monopoly over the main communication channels, including very close monitoring and censorship of the media.¹⁷⁹ Given the German government had little incentive to inform their civilians and soldiers of Allied commitments, the democratic belligerents needed to devise ways to bypass official government channels and communicate directly to German soldiers. Means included radio broadcasts, audio messages over loudspeakers, and others, but by far the most popular tactic became the dropping of leaflets on German positions. Leaflets had the advantages of being able to be dispersed across a wide area, involved no technological requirements on the part of the target unlike the radio, and could be kept and read numerous times by the same individual soldier or easily passed on to others.¹⁸⁰

The resources devoted to the production and distribution of leaflets is a testament to their perceived utility by the Allies. In less than one year between D-Day with the landing at Normandy in June 1944 and Victory Day in May 1945, the United States and Britain dropped approximately six billion leaflets on German positions in Western Europe alone (Hollander 1945:159). As the war went on, the Allies were increasingly successful in finding their targets and disseminating information directly to German soldiers on the ground. Surveys of German POWs later on during the war found that over 80 percent had seen Allied leaflets (Lerner 1981:184). Of course,

¹⁷⁹ Although by no means straightforward, in many ways the Wehrmacht was a softer target for propaganda than German civilians, since soldiers were generally in much more concentrated locations and closer to Allied positions (Lerner 1981:131-133).

¹⁸⁰ In fact, a black market soon developed among German soldiers for trading Allied propaganda, which only served to increase the overall audience for U.S.-British psychological warfare messages (Shils and Janowitz 1948:312).

surveys of captured German soldiers need to be considered with some skepticism, since respondents may simply want to give responses their captors would prefer.¹⁸¹

Allied propagandists were thus successful in grasping the attention of German soldiers defending their positions against Allied advances, but what also mattered was the precise content of the messages. The themes relied on to encourage enemy soldiers to surrender point to the prominent role played by promises of good conduct. A content analysis of the “ZG” series of 84 PWD leaflets dropped on Wehrmacht positions found that “Good treatment of POW’s” was the fourth most common message (13 occurrences) across twelve main themes considered.¹⁸² More popular themes included “Inevitable German defeat” (16 occurrences), or the general but stark warning “Save yourself!” (14 occurrences). One problem with drawing firm conclusions from this series was that it was intended for the Wehrmacht across the entire Western front, which presumably included rear areas and reserve battalions. A clearer test of what the Allies viewed as the most effective message for inducing surrender would be a leaflet series intended primarily for German positions in heavily engaged battle zones. The CPH series of 39 leaflets distributed by the 9th U.S. Army to German units in its sector provides a better sense of the prominence of the “Good treatment of POW’s” theme for those individuals most likely to be in the position to surrender or continue fighting. In this series promises of good conduct became the

¹⁸¹ A further danger is that a sample limited solely to German POWs may provide a biased picture, since those most likely or amenable to picking up and reading an Allied leaflet may also be more likely to be influenced by the message and subsequently choose to surrender.

¹⁸² Though it should be noted that this form of content analysis is not without limitations. The sample is not exhaustive, but is based on four main series of leaflets found at the Hoover Library archives. Only the single most prominent theme is selected for each individual leaflet even if multiple themes are included. If the leaflet was two-sided, and the second side included a different theme, then two separate observations were coded. Results also were not weighted by the number of a particular leaflet dropped, since this information is not always readily available for all leaflets. However, so-called “one-shots,” where a leaflet was only dropped in a single mission, were excluded. The use of maps, pictures, color, or other remarkable features were also not considered. The results thus focus on the frequency of themes across a given series of leaflets rather than the intensity (Lerner 1981:185).

most frequent theme employed with ten separate occurrences overall (Lerner 1981:186-187).¹⁸³ Assurances of humane treatment were thus most common in those areas where enemy soldiers would have the greatest opportunity to surrender.

Was all this effort in terms of the careful design of leaflets, but also the enormous scale of their distribution, actually successful in encouraging German troops to surrender in greater numbers than they otherwise would have? Figure 13 below shows the quarterly number of German troops surrendering to U.S. and British forces. As is evident, few prisoners were taken in the early years, while numbers reached into the hundreds of thousands by the third quarter of 1944 and spiked dramatically in 1945.¹⁸⁴ Although propaganda operations began in earnest from mid-1944 onward, it is clearly problematic to infer any direct association between psychological warfare and the number of observed surrenders, especially given the prominent role of Allied military advances during this period.

A rigorous examination of the effectiveness of Allied propaganda during the war is not without problems. There has been no equivalent to the massive *United States Strategic Bombing Survey* conducted in the aftermath of the war to evaluate the effectiveness of airpower in achieving a wide range of objectives (United States Strategic Bombing Survey 1976).¹⁸⁵ Little systematic data was compiled to estimate the direct effects of propaganda on the thinking and behavior of German targets, which has left military historians to make inferences based on what information they can find.

¹⁸³ Another related theme that became increasingly common were leaflets providing specific instructions for how German soldiers willing to surrender could most safely do so. One of the most common tactics was to spell out in a phonetic manner two simple yet vital words for a soldiers to demonstrate their willingness to give themselves up, “Ei Ssörrender” (Lerner 1981:216).

¹⁸⁴ Figures based on (Overmans 1992:145).

¹⁸⁵ The survey included hundreds of reports totaling thousands of pages covering issues ranging from the destruction of particular German industries to undermining civilian morale.

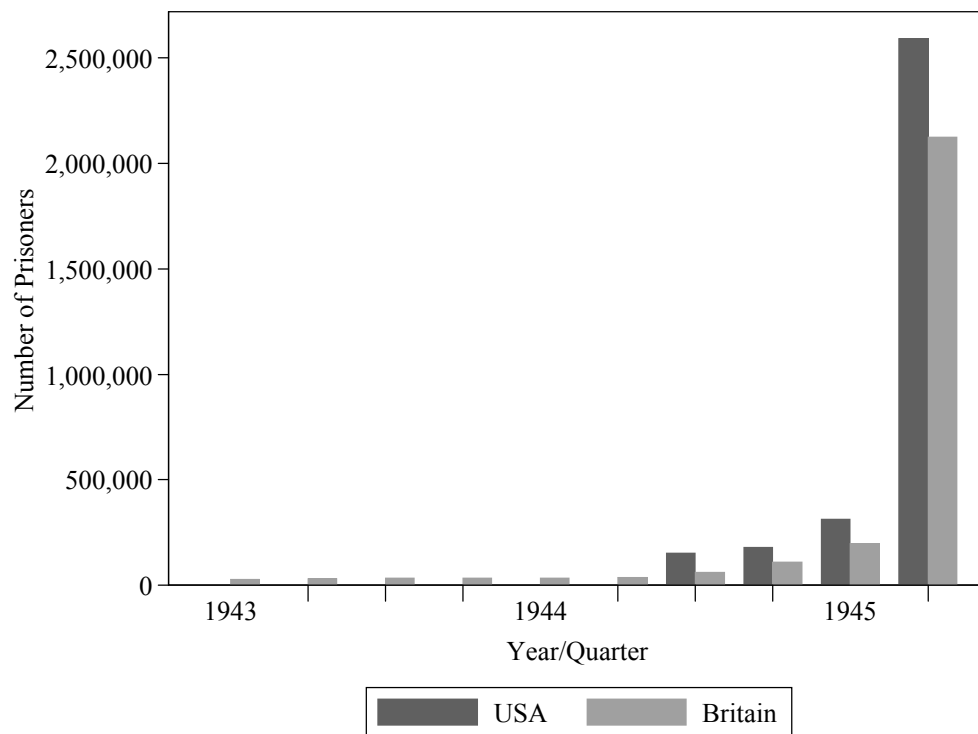


Figure 13: Number of German prisoners by quarter, 1943-1945

Even if such data exist, a compounding problem is that psychological warfare was not intended to be used as a technique completely separate from military force for influencing the beliefs and behavior of a target, but rather in a complementary and interactive manner (Smith et al. 1946:133). This problem is particularly pronounced for propaganda, since during the war Allied officials explicitly coordinated psychological warfare in conjunction with military operations. Successes during battle were expected to demoralize the enemy and as a consequence make them more susceptible to propaganda, which could then be translated into further military benefits. As one scholar notes, “it is difficult to discern where the demoralization induced by battlefield defeats left off and where the demoralization induced by propaganda in support of military operations began” (Gilmore 1998:148). The danger of circular reasoning becomes quite evident in this regard. Soldiers may surrender because of rising defeats on the battlefield, but propaganda taking advantage of this

and encouraging them to surrender makes the prospects of defeat loom even larger, which logically makes the prospects of defeat even larger. Although it is difficult to isolate the precise independent effect of propaganda given the importance of alternative factors and likely interaction effects, several signs point to psychological techniques playing at the very minimum a contributing role in encouraging enemy troops to surrender.

Attitudes of captured German soldiers indicate that promises of good treatment were highly salient. A series of surveys of German POWs over the course of several crucial months of fighting between December 1944 and February 1945 found that respondents remembered leaflets focusing on promises of good treatment more than any other theme (Shils and Janowitz 1948:302). Leaflets emphasizing the inevitability of the Allied victory, or appeals attacking Nazi ideology, in comparison appeared to have surprisingly little impact in undermining combat effectiveness.¹⁸⁶ Again, care must be taken in assigning too much weight to these surveys given the context of the respondents and their potential desire to please their captors, whether out of fear or other motives. There is little reason to expect, however, that choosing the good treatment option was more likely to “please” their captors than the other available alternatives. After all, given the ideologically charged nature of the conflict, one might expect that attacks on Nazi ideology might be perceived as a far more popular answer from a Western point of view. Although only indicative, the surveys are at least suggestive of the motives and beliefs underlying German POWs at the time.

¹⁸⁶ It is not that German soldiers were immune from attacks on Nazi doctrine, but rather ideology appears to have played less of a role in determining their likelihood to continue fighting, at least on the Western Front. As one soldier was quoted as saying, “Nazism begins ten miles behind the front line” (Shils and Janowitz 1948:303). For a contrary view on the role of ideology in motivating German soldiers on the Eastern Front against the Soviet Union, see (Bartov 2001:4, 104, 155).

Beyond remembering the particular message, German prisoners were also likely to trust the Allied commitment that they would be properly treated as prisoners of war. SHAEF surveys between June and October 1944 show that between 82 and 90 percent of German POWs believed they would be treated according to the requirements of the 1929 Geneva Conventions (Committee on Military Affairs 1945:13). This is more than likely an upwardly biased estimate of the true belief of Allied promises within the broader German armed forces, since those soldiers who surrender were probably more likely to believe, or have been convinced by U.S. and British propaganda in the first place. Nevertheless, if soldiers had the opportunity to vote with their feet they appeared to have overwhelmingly preferred to surrender to U.S. and British forces rather than their more brutal Soviet ally. It has been estimated that in the closing months of the war approximately one million German soldiers fled West into the hands of the democratic powers rather than take their chances in Soviet captivity (Bischof and Ambrose 1992a:5). This might be indicative more of the fears of these soldiers of the Soviet Union rather than the benevolence of the Western Powers, but the point remains that their words were ultimately consistent with their actions.

The overall level of trust exhibited by German soldiers in the promises of the Western powers is nonetheless impressive, since the German government went to considerable lengths to counter Allied propaganda. Officials from the Nazi Party were integrated into Wehrmacht units to indoctrinate soldiers, while S.S. and state police units were given increasing control over monitoring the movements of German troops in frontline areas (Shils and Janowitz 1948:307-308). Desertion was viewed as a “subversion of the war effort” (*Wehrkraftzersetzung*), and an official order was issued that threatened to execute any soldier attempting to desert, which eventually led the Wehrmacht to kill between 15,000 and 20,000 of its own troops (Bartov 1991:71;

Ferguson 2004:172). Through conducting a systematic campaign to misinform their own soldiers regarding the practices of the Western adversaries, it is perhaps surprising that Allied prisoner policies and propaganda were so successful at encouraging surrenders.

One interesting component of this account is that while an institutional approach may provide a more convincing explanation for the causes of democratic policy making toward prisoners, a normative perspective may still shed some light on understanding why appeals of good conduct were effective in convincing individual troops from the Wehrmacht to surrender in the first place. It appears the ways in which German soldiers chose to evaluate Allied propaganda were consistent in many respects with expectations from a normative approach. Soldiers often reasoned that because the United States and Britain treated their own citizens in a lawful and humane manner, they were likely to do the same even with enemy soldiers. Beliefs of Allied promises of good conduct were largely successful because many German soldiers shared “the attitude that the British and the Americans were respectable law-abiding soldiers who would treat their captives according to international law” (Shils and Janowitz 1948:313). As one soldier noted, “Nobody exactly wants to get captured, but I and my comrades all expected humane treatment from the Americans” (Committee on Military Affairs 1945:13).¹⁸⁷

¹⁸⁷ Although German soldiers may have been more likely to believe the promises of good conduct offered by the democratic belligerents, it is far from conclusive that broader democratic norms had any lasting impact on Wehrmacht prisoners during their time in captivity. The U.S. Provost Marshall General developed an ambitious reeducation program in an attempt to inculcate German prisoners with traditional democratic principles and beliefs. Exit surveys of prisoners found that an overwhelming majority professed support for democracy as Germany’s future form of government. Between 71 and 83 percent of respondents were also reluctant to fight the same conflict even if Germany would win and they would personally live through the war. However, on other questions preexisting attitudes remained fairly entrenched. Asked whether Jews were to blame for Germany’s problems 57 percent at least partially agreed (Robin 1995:162). Such attitudes remained even for prisoners seen as fervently anti-Nazi and selected for a special education program at Fort Eustis, Virginia. 10 percent of these prisoners still agreed with the anti-Jewish statement (Gansberg 1977:165). One explanation for these seemingly contrary findings was that German prisoners exhibited enduring totalitarian beliefs, which led them to

This poses a similar danger of circularity as in other issues regarding the effectiveness of propaganda. Expectations of good treatment by enemy soldiers may increase the incentives for democracies to treat prisoners well, which should correspondingly feedback and improve soldiers' expectations of captivity. In a similar manner, autocracies may have a harder time convincing enemy combatants to surrender, and thus autocrats may have less incentive to treat prisoners humanely in an attempt to encourage further surrenders (Reiter and Stam 2002:67). In reality the connection between the prior expectations of prisoners and the conduct of captors is not always so deterministic. A group of soldier's may be predisposed toward certain expectations regarding their prospects in captivity, but captor states irrespective of regime type may take certain steps to make it more or less likely that soldiers will choose to surrender. As will be discussed in further detail below, unlike on the Western Front Japanese soldiers were much less willing to trust they would be well-treated by U.S. forces. Nevertheless, over the course of the war the United States to not simply resort to high levels of abuse, but rather used propaganda and other tools to influence these beliefs and subsequent decisions of Japanese soldiers to surrender. Beliefs of combatants are not necessarily predetermined and constant, but can be shaped at least to a certain extent by the conduct and overall practices of captor states.

Given the importance of expectations over treatment, it is perhaps not surprising that the Safe Conduct Pass, or *Passierschein*, is widely viewed as the most successful propaganda leaflet from the entire war, since it capitalized more than any other on the promise of humane conduct toward surrendering soldiers.¹⁸⁸ The leaflet

choose the "correct" answer that would please their new U.S. authorities, but fall back on Nazi beliefs when faced with questions where the answer was more uncertain (McGranahan and Janowitz 1946:5, 12). Interpreting the meaning of survey responses must always proceed with caution.

¹⁸⁸ In a survey of psychological warfare experts associated with the Allied program, the Safe Conduct Pass was cited as the most successful leaflet from the war (Lerner 1981:306-307).

did not focus on any other issue, such as the strategic situation on the ground or the moral depravity of the Nazi regime. Instead, the pass concentrated on a simple promise of good treatment. The text of the leaflet reads as follows:

SAFE CONDUCT

The German soldier who carries this safe conduct is using it as a sign of his genuine wish to give himself up. He is to be disarmed, to be well looked after, to receive food and medical attention as required, and to be removed from the danger zone as soon as possible.

Signed – Dwight Eisenhower, Supreme
Commander Allied Expeditionary Force¹⁸⁹

The final design went through five different revisions based on information gleaned from interrogated German prisoners regarding what aspects of the leaflet were more or less attractive and convincing.¹⁹⁰ In addition to the personal signature of General Eisenhower, the overall design of the pass was intended to look very official not only to demonstrate the seriousness of the commitment, but also to give German soldiers the sense that it gave them authority to surrender. The leaflet contained the government seals of both the United States and Great Britain, was usually printed on high quality paper using nice ink and in color. As one historian remarked, “From a rather crude beginning, the Allied surrender leaflet ended the war looking like a cross between gilt-edge bonds and a college diploma” (Margolin 1946:50). The leaflet was viewed as doubly effective because it enunciated in clear terms the Allied promise of humane conduct, but also provided a concrete means for Germans to actually surrender. Government reports from the war show that German soldiers would carry the pass with them, oftentimes waving it over their heads, to demonstrate their good faith as they surrendered (Committee on Military Affairs 1945:13).

¹⁸⁹ The text was based on leaflets found at <<http://www.psywarrior.com/GermanSCP.html>>.

¹⁹⁰ Interestingly, the original design was based on Soviet combat leaflets (Lerner 1981:213). Given the brutality of Russian treatment of enemy prisoners during the Second World War, the Russian message was much less effective, though Russian propaganda did become more sophisticated over the course of the war (Ferguson 2004:191 fn.193).

It bears reemphasizing that irrespective of the actual effectiveness of promises of humane treatment, what ultimately matters from the point of view of an institutional explanation for democratic conduct was that democratic leaders *believed* there were strategic benefits to be gained. As one U.S. General asserted, “German prisoners in America write thousands of letters to their families in Germany telling of the treatment that they are accorded. This is America's greatest propaganda and is having a decided influence on the course of the war” (Committee on Military Affairs 1945:3). The fact that the German government also believed in the power of these messages by attempting to counter such propaganda, even going so far in some instances as to censor or prevent mail from German POWs from being delivered back home, points to the role that concerns over strategic benefits played in shaping the incentives of the democratic belligerents (Speer 1970:250).

The potential for accruing strategic advantages from good conduct was even evident in the much harsher battle environment that prevailed on the Pacific front during the campaigns between the United States and Japan. There is little doubt that U.S. treatment of Japanese prisoners, especially in the early portions of the war, was below the standards afforded to Axis prisoners in the European Theater. Part of the reason for this conduct is actually in many ways consistent with an institutional explanation. Japanese treatment of U.S., British, and Commonwealth prisoners was extremely brutal.¹⁹¹ Prisoners were made to perform hard labor in unsanitary conditions and often on meager food rations (Vance 2006:464). Along with frequent executions, it follows that on average close to 30 percent of Allied prisoners did not make it home at war’s end, as was illustrated earlier in Table 24.

¹⁹¹ The war in the Pacific was also notable in an even more grotesque sense, since it was not uncommon for Allied prisoners to be vivisected and used for scientific experiments (Roland 1996:152, 169).

In light of the fact that Japan was already committing high levels of abuse, constraints relating to fears of retaliation were weaker in the case of the Allies in the Pacific. The forces resulting from reciprocity thus make the Pacific War a relatively hard case for arguing that strategic advantages played a role in prisoner policy making. The United States and Britain did indeed engage in significant levels of abuse against Japanese prisoners, though the abuse was not nearly as systematic or extreme as their Japanese adversary (MacKenzie 1994:516; Vance 2006:462). The response of the democratic powers in the Pacific War is in many ways consistent with the aggregate finding that democracies are often just as likely as autocracies to retaliate against high levels of abuse by their opponent, which was first reported in Figure 10 above.

Nevertheless, Allied conduct remained more humane than that of their adversary and, if anything, gradually improved as the war continued. One of the reasons for this was that the strategic benefits from good conduct toward Japanese troops were in many ways greater than for any other group of enemy soldiers during the war. Japan's Bushido tradition, which demanded soldiers fight to the death and viewed surrender as the ultimate dishonor, is often credited with making Japanese troops extremely reluctant to surrender (Benedict 1946:38). Soldiers facing the prospect of surrender would often instead prefer death in battle or even suicide. As the Japanese Armed Forces' *Field Service Code* plainly stated, "Never live to experience shame as a prisoner."¹⁹² The number of prisoners in the Pacific Theater was, therefore, much lower than in Europe. Figure 14 below provides the estimated annual number of Japanese prisoners taken by U.S. forces over the course of the war.¹⁹³

¹⁹² Quoted in (Carr-Gregg 1978:25).

¹⁹³ Numbers taken from (Gilmore 1998:155).

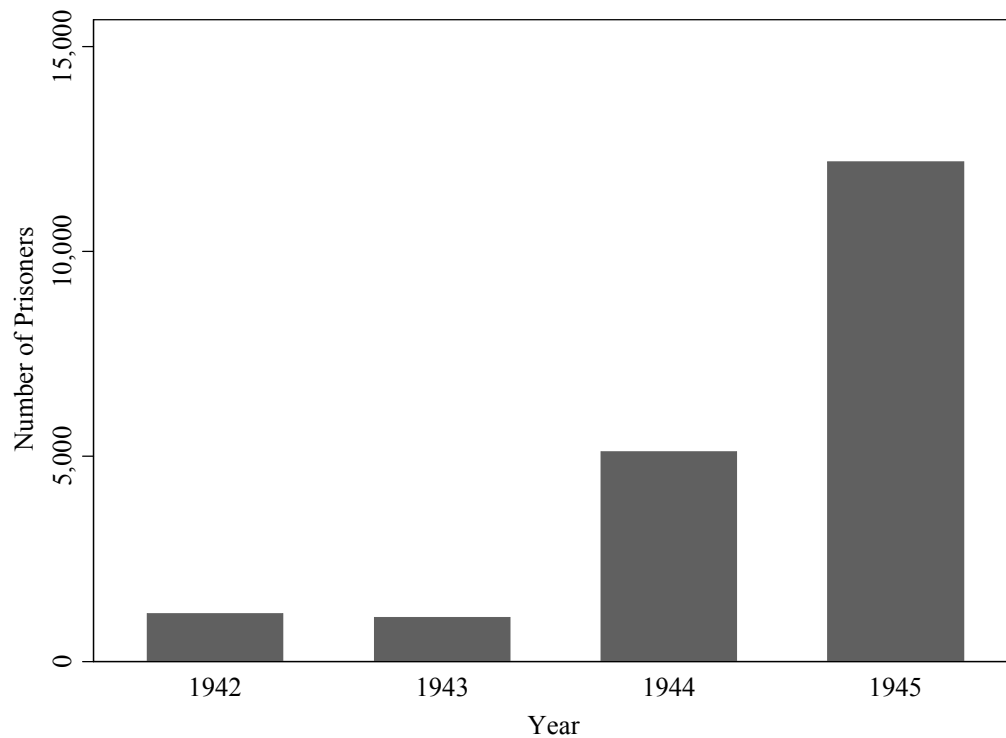


Figure 14: Annual number of Japanese prisoners taken by the United States, 1942-1945

The Japanese culture of no-surrender made the use of Allied propaganda much more difficult than in the German case. However, this culture ironically provided some immense benefits to the Allies for those Japanese troops that did fall into their hands. First, Japanese prisoners had received no training on how to conduct themselves once captured, since surrender was never even discussed as an option by the military leadership. They were thus much less “security-conscious” than German or other prisoners, and often willingly shared valuable military intelligence (Hata 1996:269). Second, the feelings of dishonor brought on by surrender often made many Japanese prisoners feel in essence dead and separated from their home country. Several prisoners in turn felt “reborn” under Allied captivity and even actively collaborated with their captors by writing and designing propaganda leaflets to encourage others to surrender, or even accompanying pilots to guide them to their

targets on combat missions over Japan (Gilmore 1995:200; Hata 1996:269)! While the strategic benefits from conduct good in the case of Germany often manifested more in the form of growing numbers of surrenders, in the Pacific Theater prisoner intelligence became a prized commodity.

General indifference in the early years of the war toward abuses committed by individual soldiers or field commanders on the ground was gradually replaced by a growing recognition among the U.S. leadership of the value of properly treating Japanese soldiers. In personal correspondence even General Douglas MacArthur, Supreme Commander of Allied Forces in the Southwest Pacific Area (SWPA), recognized that combatant abuse was counterproductive to the overall war effort and in particular harmed the propaganda efforts of the Allies to induce Japanese surrenders, which meant a loss of potentially valuable intelligence.¹⁹⁴ The U.S. Army developed a concerted campaign to overcome the tendencies of U.S. soldiers to retaliate against Japanese abuses by making their troops more “surrender-conscious” (Gilmore 1995:198-199). This education program stressed not only the intelligence value of Japanese prisoners, but also pointed out that committing atrocities would only strengthen the resolve of enemy soldiers to continue fighting, which would simply result in further U.S. casualties.¹⁹⁵

The sincere attempt by U.S. authorities to instill more humane practices on the battlefield and encourage surrenders in some ways begins to call into question the more common view that the conflict in the Pacific was a race war where both sides relied on unheard of levels of brutality in an attempt to exterminate the enemy (Dower

¹⁹⁴ Based on personal correspondence from MacArthur to the Commanding General of Alamo Force, May 14, 1944 (Gilmore 1995:198).

¹⁹⁵ More direct incentives to encourage U.S. soldiers to capture rather than kill Japanese soldiers were also considered and even included the promise of ice cream and three days’ leave if a soldier brought in a prisoner alive (Bourke 1999:184).

1986:11; Weingartner 1992:55).¹⁹⁶ There is little doubt that military force took pride of place in the Allied strategy for defeating Japan, but the fact that propaganda and other persuasive tools were also heavily employed at least suggests the United States was not purely driven by racial motives to rely solely on violence to destroy their foe (Gilmore 1998:147). The role of propaganda for encouraging surrender also counters the argument that U.S. leaders, citizens, and soldiers almost uniformly held negative stereotypes of the enemy as subhuman savages (Dower 1986:77-78). Officials from the U.S. War Office did not conceive of a monolithic Japanese soldier, but rather through an extensive analysis based on interrogations, personal diaries, and other captured documents, developed a five-fold categorization of distinct personality types and the influence of various forms of Allied information on each type of Japanese soldier.¹⁹⁷

Although implemented on a smaller scale, Allied promises of human conduct appeared to have had some similar positive effects on Japanese soldiers as in the case of Germans in the European Theater. U.S. operations were successful in distributing leaflets to a relatively large number of Japanese soldiers. In a search of 1,000 Japanese casualties after one battle, it was found that over 90 percent possessed at least one Allied leaflet, despite orders from Japanese superiors that carrying Allied propaganda was an offense punishable by death (Walker 1974:53). U.S. plans to use propaganda for the purposes of actually changing Japanese beliefs faced an uphill battle given the baseline expectation of most soldiers was that they would be tortured or killed by U.S. forces. A study by the U.S. Office of War Information found as late as June 1945 that

¹⁹⁶ Although Dower focuses primarily on the racism that imbued both sides and resulting atrocities, even he acknowledges that in many instance U.S. soldiers were willing to accept Japanese surrenders (Dower 1986:67).

¹⁹⁷ This categorization was based on a study by the Foreign Morale Analysis Division (FMAD), which is discussed more extensively in (Gilmore 1998:164).

84 percent of Japanese prisoners had expected to be killed after capture (Ferguson 2004:181). On the other hand, the benefits from convincing even a few Japanese soldiers of U.S. promises of good conduct were highly promising, since a similar study also found that four in every five prisoners demonstrated “remarkable cooperation” in providing intelligence, but also in offering to encourage other soldiers to surrender (Dower 1986:77).

Facing an enemy that exhibited a lower propensity to surrender in the first place meant the degree of success of propaganda would likely be lower than in Germany. On top of the personal reluctance of many Japanese soldiers to surrender, the United States also had to deal with the fact that abuses by U.S. forces, especially on the battlefield, continued to occur and were more pronounced than the conduct of its forces in Europe. Furthermore, the steadfastness of many Japanese troops during battle is perhaps most apparent by the fact that Japan’s ratio of prisoners to battle deaths was far lower than for any other belligerent of the war (Vance 2006:462). Nevertheless, during one of the largest propaganda operations of the war over the course of the battle for the Philippines, the prisoner-to-dead ratio dropped from 1:100 in late 1944 to 1:7 by July 1945.¹⁹⁸ It is not unreasonable to assume that a substantial portion of this decline was a result of the greater trust many Japanese soldiers placed in the commitment of U.S. forces to humanely treat them if they surrendered. As one soldier remarked, “only half of [the men in his unit] believed the ‘good treatment’ promises” of leaflets.¹⁹⁹ However, in light of the predisposition of many Japanese soldiers to fear capture at the hands of U.S. forces, as well as active steps taken by

¹⁹⁸ Figures drawn from Table 1 in (Gilmore 1998:154). The increase in the number of prisoners was also argued to directly save U.S. lives, since removing these Japanese soldiers from the frontlines meant there were fewer that needed to be subdued by U.S. forces. Given the average number of U.S. casualties for every Japanese soldier killed, one study of the Philippines campaign estimated that the growing number of Japanese who surrendered meant 2,300 fewer U.S. soldiers died as a result (Fellers 1946:11).

¹⁹⁹ Quoted in (Gilmore 1998:150).

Japan's government to convince their troops this would indeed be the case, the utility of Allied practices and commitments to good conduct for the overall war effort should not be understated.

In sum, evidence from the Second World War suggests that the conduct of main democratic belligerents was primarily driven by institutional incentives. The strategic benefits from humanely treating enemy combatants, whether in the form of greater numbers of surrenders or acquiring valuable intelligence, provided the promise to shorten the war and reduce U.S. and British casualties at the same time.

Furthermore, as the earlier section on reciprocity made clear, humane treatment also reduced the likelihood of retaliation and could help provide further safeguards for those Allied troops who had fallen into the hands of the adversary. In both instances, the role of normative principles protecting prisoner rights appeared to be minimal.

Additional Implications from WWII for the Role of Norms vs. Institutions

The theory of combatant abuse presented in this study is limited to the treatment of prisoners during the actual course of the conflict. The analysis of U.S. and British conduct during the Second World War up to this point has focused primarily on the motivations underlying their practices during the period of actual armed hostilities. The previous section argued that an institutional account emphasizing the greater sensitivity of the democratic belligerents to fears of retaliation, along with attention to the strategic benefits of humanely treating prisoners, provides a better explanation of their conduct than one based on domestic norms of nonviolence and respect for individual rights. Although far from perfect, the conduct of the democratic belligerents during the Second World War has been painted in a fairly positive light. Yet during the war and not long afterwards, both the United States and Britain committed various levels of abuse, which call into question any claim that democracies are always benevolent. Other elements from the Second World War point

to this darker side of democracy and provide a further opportunity to examine the relative role of normative and institutional factors for understanding the ways in which democracies sometimes act more brutally during war.

Toward this end, three other issues are examined below. These are the treatment of Axis prisoners in Europe after the end of war, the forced repatriation of Russian prisoners by the United States and Britain, and the targeting of German civilians by the democratic powers during aerial bombing operations. Each issue provides an additional observable implication for assessing the importance of democratic norms or institutions for understanding the outcome in each case. The aim of the earlier cases looking at U.S. and British treatment of prisoners during the war was to examine the precise motivations underlying Allied conduct, since both normative and institutional approaches expected the observed outcome of relative humanely conduct. In contrast, each issue below provides an added advantage by examining circumstances where the normative and institutional approaches each expect somewhat different outcomes. This also has the further benefit of evaluating the usefulness of each approach for understanding the more general behavior of democracies during both times of war and peace.

The Treatment of Axis Prisoners in Europe after the War Ended

In many ways an examination of any changes in Allied treatment of Axis prisoners after Victory Day in Europe provides an even clearer test of normative versus institutional explanations, since each offers different expectations about post-war Allied conduct. A normative approach would expect the democracies would continue to treat enemy prisoners in a humane manner. If anything, treatment might even be expected to improve. Security concerns during the war, along with fears over what defeat might mean for the survival of democratic societies, is one way in which democracies might rationalize less than ideal treatment of prisoners in the course of

battle for the greater good of defending their core values. However, once the war ends the enemy no longer poses the same level of threat, and one would expect democracies to hew even more closely to their principles and in turn improve their treatment of the prisoners they continue to hold.

In contrast, from an institutional point of view one of the primary motives restraining combatant abuse – the fear of retaliation – largely disappears once the war is over. This is especially the case when one side has achieved total against their opponent. Although this does not immediately imply that previous benevolent captors will turn brutal, it does at least suggest democracies have fewer incentives to uphold rigorous standards of care for prisoners in their custody. The normative and institutional approaches, therefore, point to very different predictions regarding the conduct of the democratic belligerents at the end of the Second World War.

After the defeat of Germany, the Allies were in complete command of German territory and quickly liberated their own prisoners, while rounding up hundreds of thousands of German troops as part of the terms of Germany's acceptance of unconditional surrender.²⁰⁰ One prominent scholar has noted that with concerns over reciprocity gone, and a desire for retribution against German crimes committed during the war, the Western Allies engaged in a systematic campaign of genocidal proportions to exterminate German prisoners of war. While only a few thousand German prisoners were thought to have died in U.S. and British custody during the war, James Bacque argues that General Eisenhower personally orchestrated the deaths

²⁰⁰ Of course, the largest exception was areas under Soviet control, which included prisoners of war camps holding U.S. and British troops. However, this issue will be discussed further in the following section.

of between 800,000 and one million German soldiers after the Second World War ended (Bacque 1990:2).²⁰¹

Bacque's research has been roundly challenged on a number of fronts from both Anglo-American and German scholars. He has been criticized for his selection of historical sources and, in particular, his interpretation of the available evidence and the dramatic conclusions he then draws.²⁰² The general scholarly consensus is that no methodical plan was put in place by the democratic powers to rid the world of German soldiers. The upper estimate puts the deaths of German prisoners in captivity after the war ended at around 56,000, which is almost one-twentieth the number alleged by Bacque (Cowdrey 1992:92). This figure implies a death rate of just over one percent and is certainly higher but not very far off from the estimated death rates under Allied captivity during the war of under or around one percent (Ferguson 2004:186).

What is relevant here is not so much the claim that the democratic powers engaged in a massive campaign of combatant abuse, but rather whether or not their conduct changed at the margin during the war compared to after hostilities ceased. The change in death rates, while still modest compared to those on the Eastern Front or in the Pacific, is at least suggestive that the Allies expended somewhat less effort to ensure the housing and nutritional needs of German soldiers in the aftermath of Victory Day.

²⁰¹ Bacque saw the crimes as so ghastly that in a later interview he said Americans "should take down every statue of Eisenhower and every photograph of him and annul his memory from American history as best they can, except to say, 'Here was a man who did very evil things that we're ashamed of.'" Quoted in (Bischof and Ambrose 1992a:20).

²⁰² Because of the implications of Bacque's argument, a conference of historians was convened to evaluate his claims. The general consensus among the scholars gathered was that almost every single one of his arguments was overstated or simply false. The proceedings of the conference were published in an extensive study (Bischof and Ambrose 1992b). Nevertheless, Bacque's research continues to garner a fair amount of attention in debates over the conduct of the democratic powers in the immediate post-war period.

There are several complicating factors that make such a direct inference from the rise in deaths rate problematic. First, the Allies faced enormous logistical difficulties with the sudden influx of millions of additional surrendering German soldiers, with some estimates putting the total in the hands of the Western Allies at around 9 million Axis prisoners in Europe in the early months following the war (Bischof and Ambrose 1992a:5; Overmans 1992:145). One of the main problems was simply finding and distributing sufficient resources to provide the masses of the defeated German Army with a minimal level of care. This was made worse by the devastated nature of a defeated Germany as well as surrounding countries after years of blockade and aerial bombardment.

Second, as the war went on a growing toll was wrought on German society at large, which meant that soldiers surrendering later in the war often entered into captivity sick and exhausted from the growing scarcity of food and supplies during their time fighting on the front (Ross and Romanus 2004:533-534). Because of their already weakened state those troops surrendering near or after Victory Day were thus less likely to be able to cope with any difficulties that arise in even the best of camps. Increases in the rate of prisoner deaths in captivity might be better explained by these contextual difficulties despite the best intentions of the democratic belligerents.

Although the post-war state of Europe presented greater obstacles for the treatment of German prisoners, there is little doubt the Allies took several steps to make the prospects for surrendering soldiers even more arduous. Taking advantage of the disappearance of the Third Reich as a functioning government, the Allies argued the 1929 Geneva Convention no longer applied. Subverting the letter and spirit of the existing laws of war, the democratic powers refused to grant official prisoner of war status to German soldiers surrendering after May 5, 1945, and stripped this status from German prisoners who were already being held in Europe up to that point.

Surrendering German soldiers were instead designated as “Disarmed Enemy Forces” by the United States, or “Surrendered Enemy Personnel” by Britain, and explicitly told they were not protected by the Geneva provisions. If democratic norms of respect for individual rights, or more broadly the sanctity of the law, had any impact on the conduct of Western Allies during the war, their strength appears to have greatly diminished at war’s end.

The disappearance of any fears of reciprocity appears to provide a more convincing explanation for the sudden change in Allied practices. Referring partly to Bacque’s charges, one historian comments more generally that:

...while there is no real evidence to suggest that a deliberate “death camp” policy was being pursued by SHAEF (Supreme Headquarters, Allied Expeditionary Force), the absence of possible retaliation meant that less effort was put into finding ways of procuring scarce food and shelter than would otherwise have been the case, and that consequently tens of thousands of prisoners died of hunger and disease who might have been saved (MacKenzie 1994:503).

Across a number of dimensions the treatment afforded German soldiers in the post-war period was inferior to that provided during the course of hostilities. The ICRC was given significantly less access to monitoring the conditions of prisoners and recording complaints compared to the much more open policy that had prevailed during wartime (ICRC 1948:539-540).

One of the biggest problems was the refusal to promptly repatriate prisoners at the end of the war to their home country as mandated under Article 75 of the 1929 Geneva Convention. Some have contended that Allied reluctance to send enemy troops home was partly driven by normative concerns over the latter’s health and safety upon returning to societies devastated by the war (Beaumont 1996:282). Yet the Western Allies had strong practical reasons for delaying the repatriation of enemy combatants, especially given their value as a source of labor for much needed

reconstruction. The newly reconstituted French Republic was particularly demanding that German soldiers help rebuild destroyed infrastructure across France. French policy also had a punitive motive to exact a certain amount of vengeance on their erstwhile occupiers. The United States and Britain were more than willing to meet these needs with some of their existing stocks of prisoners, and made several formal agreements to transfer Axis prisoners to France before their final repatriation home (Gansberg 1977:136).²⁰³ The willingness of U.S. and British authorities to transfer prisoners to the French with little regards for their treatment stands in sharp contrast to their attitude during the war when they were especially fearful of Axis reprisals in response to possible French abuses.

Laborers were also sometimes forced to perform extremely dangerous work, which was in complete contradiction to existing international agreements. One of the most hazardous duties was mine clearing, and an ICRC report found that by the fall of 1945 around 2,000 Germans were dying per month from this work (ICRC1948:334). When needs were present and no threat of retaliation against their own soldiers was apparent, the democratic norms of Western Allies appeared to have little restraining effect. The final repatriation of Axis prisoners originating in the West did not conclude until the end of 1948, more than three after the end of the war. Though it should be

²⁰³ Though neither the United States nor Great Britain should be viewed as simple bystanders who acquiesced to the demands of their vindictive French ally. One of the most shocking events from this period, which only fully came to light years later, was perpetrated directly by British authorities. Britain's War Office created the so-called Combined Services Detailed Interrogation Centre (CSDIC), which administered a secret prison in the spa resort town of Bad Nenndorft, which was located in the British zone of occupied Germany. The center operated from not long after the end of the war until July 1947. During this period, interrogators rounded up former members of the Nazi party and the SS, in order to prevent the rise of any Nazi-inspired insurgency (Cobain 2005:8). However, later prisoners also included suspected Soviet agents. Prisoners were regularly tortured and lived in horrid conditions with little food. Several guards were eventually court-martialed behind closed doors, but most charges were dismissed and few of the accused faced any significant punishment. The secrecy of the prison, along with the fact that Britain faced no real possibility of retaliation since Germany had been completely defeated, further points to the potential for democracies to resort to combatant abuse when the risks resulting from reciprocity are low. I thank Matthew Evangelista for bringing this episode to my attention.

conceded that the Western Allies' effort was at least better than that of the Soviet Union, where the last German prisoners did not return home until 1956.²⁰⁴

The willingness of the United States and Britain to eschew previous commitments to international law even led to some rather paradoxical situations, such as the holding as prisoners soldiers who were formally allied to both democratic powers. When the war began fascist Italy was one of the main partners of the Axis powers waging war against the Western Allies and the Soviet Union. Throughout the summer of 1943, the Western Allies made steady advances across Sicily and were starting initial operations against the Italian mainland including heavy aerial bombardment of key cities. By September of that year, Italy was defeated and the new Prime Minister, Pietro Badoglio, who had taken over after Benito Mussolini had been deposed earlier that July, signed an armistice with the Allies. One of the main stipulations of the armistice was that Italian forces would switch over to fight for the Allied cause. Upon receiving word of the armistice, German forces quickly occupied much of the Italian peninsula, but Italy at least became a nominal partner in the U.S. and British coalition against Germany and Japan.

One key problem, however, was between them the two democratic belligerents had captured approximately 450,000 Italian soldiers during earlier campaigns in North Africa and the Mediterranean (Moore 1996:32). In negotiations leading up to the armistice, the Allies promised the Badoglio government that all Italian prisoners would be repatriated so long as Allied prisoners under Italian control were promptly returned as well. This proposal reflects the common concerns of reciprocity expressed

²⁰⁴ In the case of German prisoners in the Soviet Union, many were initially sentenced to 25 years of hard labor for even relatively minor offenses. Their fate in Soviet hands would have likely lasted even longer. The Soviet Union only consented to repatriate the last batches of prisoners after West Germany eventually agreed to establish formal diplomatic relations between the two countries. Prisoners thus became victims of the larger diplomatic dispute between the two former wartime adversaries (Vance 2006:461).

by the U.S. and British leaders throughout the war. Unfortunately, it turned out the Italian government would be unable to uphold its end of the agreement. As part of its occupation of the Italian mainland, Germany quickly took control of all prisoner of war camps and quickly shipped most Allied prisoners out of Italy (MacKenzie 1994:502).

German control of thousands of Allied prisoners was far from a welcomed development for the democratic powers, but one side effect was that it provided much more flexibility over how to deal with Italian prisoners in their hands. The 1929 Geneva Convention had never envisioned a scenario of one state switching sides midway through a war, which meant no explicit provisions existed for how Italian prisoners should be treated. By that point many of these prisoners had been transported to the United States, the United Kingdom, as well as various British colonies, and became important contributors to their war economies. There were thus strong incentives to put aside arguments that these prisoners should be liberated and instead keep them in a similar prisoner status. As one U.S. military official commented, “We felt it absolutely necessary from the military standpoint to keep these people [i.e. Italian prisoners] and get useful labor out of them” (Committee on Military Affairs 1945:3). By the end of 1944 Italian prisoners on U.S. soil has provided over ten million worker-days of labor in tasks that freed up U.S. soldiers for deployment overseas (Lewis and Mewha 1955:100). Stated plainly, the 50,000 Italian prisoners in the continental United States, along with hundreds of thousands in North Africa and the British Dominions, allowed the democratic belligerents to substitute an equivalent number of their own troops, minus those needed for guard duty, directly to the war effort.²⁰⁵

²⁰⁵ Specific numbers of prisoners in the United States proper are based on statistics from (Krammer 1979:271-272). It is indicative that the numbers of Italian prisoners based in the United States only

To be fair, in comparison to the fate their German compatriots later met, the actual conditions and restrictions for Italian prisoners improved somewhat after 1943, since they were viewed as less of a threat to national security (Porter 1945:4; Keefer 1992:103). Nevertheless, it still was not lost on Italian troops that they remained confined to camps despite the fact that some of their brethren who had been lucky enough not to be captured were now fighting alongside their captors in Europe. Taken together, the evidence of Allied treatment of both defeated Germany and their newfound Italian allies provides further support for an institutional approach, which suggests the democratic powers were more willing to bend legal norms and exploit their captives once the threat of reciprocity disappeared. In the post-war environment, they also recognized the advantages to be gained from mistreating their prisoners, or at least not fully caring for their needs, and were more than willing to reap those benefits. Moral considerations for protecting the rights of prisoners, who had already suffered tremendously from the burdens of the war itself, appeared to have unfortunately played little role in shaping their conduct.

The Forcible Repatriation of Soviet Prisoners at the End of the War

The Second World War generated enormous movements in populations as the result of civilians fleeing from conflict zones, workers coerced into enemy fields and factories, and of course huge numbers of prisoners. Between 1939 and 1945 it is estimated that around 30 million persons became displaced across Europe. Around 7.5 million alone were non-Germans living in Germany and Austria (Proudfoot 1957:169). Formerly captured Russian combatants formed a large part of this overall number. Many had already endured a harsh experience during their time in captivity. Although over 5 million Russian soldiers were captured on the Eastern Front during

began to decline once the wider war ended in September 1945, almost two years after Italy itself was defeated.

the war, only 2,000,735 eventually returned to the Soviet Union (Sword 1995:323). Although these two million persons might be considered the lucky ones, later developments after the war ended suggested this was not always the case.

Many of these prisoners, along with millions of displaced Russian civilians, did not want to return to their country of origin. While the exact number is unknown, between 250,000 and 1 million prisoners either volunteered or were coerced into joining the German armed forces, and feared they would be punished as fascist collaborators upon returning to the Soviet Union (Bartov 1991:44-45; Vance 2006:460). Only four months after the invasion of Normandy in June 1944, the Western Allies already held 28,000 Russian soldiers caught fighting in German uniform (Proudfoot 1957:152). The final number ending up in Allied captivity is not known for certain, but was likely substantially higher.

Even regular prisoners worried about their safety. Under Soviet military law, it was a punishable offense for a soldier to surrender without having first been wounded, or receiving an order allowing to do so from their superior (Ginsburgs 1957:360). To reinforce this point, in 1942 Stalin issued Order No.270 decreeing that any soldiers allowing themselves to be captured alive by German forces would automatically be considered traitors (Dallin and Nicolaevsky 1947:282). The fate of many Russian prisoners was thus well known should they eventually return to their homeland.

With prisoners of all nationalities scattered across the Third Reich and formerly occupied territories, the Western powers were faced with the choice of how to handle millions of Russian soldiers and civilians who fell into their hands as the war neared its end. According to a normative approach, an expectation would be that those not wanting to return to the Soviet Union would not be forced to do so. Returning individuals to a country where they were at grave risk of execution, or likely to be subjected to extreme forms of violence and deprivation, was in complete contradiction

to longstanding U.S. and British principles of asylum (Epstein 1973:21, 30). Furthermore, the 1929 Geneva Convention on Prisoners of War contains no explicit provision outlawing forced repatriation, since this was not a scenario envisioned by negotiators at the time. However, compelling prisoners to return against their wishes appears to contradict the core principle of the convention as outlined in Article 2, that prisoners “shall at all times be humanely treated and protected, particularly against acts of violence,” and “measures of reprisal against them are forbidden.”²⁰⁶ In terms of precedents, bilateral treaties negotiated in the aftermath of the First World War, several signed even by the Soviet Union itself, explicitly stated that prisoners could only be returned to their home country on a voluntary basis (Epstein 1973:15).

The policy of the democratic powers went against these normative expectations, since the United States and Britain demonstrated little reluctance to forcibly repatriate Russian prisoners back to the Soviet Union. The policy was formalized in a specific repatriation agreement negotiated at the Yalta Conference in February 1945.²⁰⁷ The agreement was not made public until March 1946 after which time the bulk of the relevant repatriations had already been carried out. Aleksandr Solzhenitsyn described these orders, and later Western attempts to downplay the extent of their role, as the “last secret” of the war (Solzhenitsyn 1974:85 fn.45). Article 1 of the Yalta Repatriation Agreement stated, “All Soviet citizens liberated by the forces operating under United States command... will, without delay after their liberation, be separated from enemy prisoners of war and will be maintained

²⁰⁶ Reprisals generally referred to acts committed by the adversary power rather than by a state against its own prisoners. Nevertheless, the general spirit of the convention would provide for the protection of prisoners irrespective of the identity of the captor state.

²⁰⁷ The full title was *Agreement Relating to Prisoners of War and Civilians Liberated by Forces Under Soviet Command and Forces Operating Under United States of America Command; February 11, 1945*. The text of the agreement can be found at http://avalon.law.yale.edu/20th_century/sov007.asp.

separately from them in camps or points of concentration until they have been handed over...”

The agreement did not contain any explicit provision authorizing forced repatriation, but there was also no reference to the 1929 Geneva Convention, and there was little doubt that prisoners would be returned irrespective of their wishes and by any means necessary (Elliott 1973:262). The agreement was in many ways a continuation of existing policy, since both Western powers had already committed to forced repatriation well before the conference and interpreted the Yalta Agreement along similar lines. Britain had begun returning captured Russian prisoners as early as the summer of 1944 (Tolstoy 1977:51-52). Future British Prime Minister Harold Macmillan, and at the time resident minister at SHAEF, gave an official order as early as November 1944 stating in blunt terms that “All Soviet citizens, irrespective of the situation in which they are found or of their past history, should be turned over as soon as possible to the Soviet authorities for the latter to dispose of as they wish.”²⁰⁸ The United States took similar steps not long after their British counterparts (Epstein 1973:33-34).

The policy of forced repatriation was also targeted specifically at Russian prisoners rather than those of other nationalities. Differences in the rights of prisoners were even made official policy. In the SHAEF *Handbook of July 7, 1945, Amended through 20 September 1945*, the section dealing with prisoners and displaced persons reads as follows:

No United Nations national, stateless person, national of a neutral state or persons persecuted because of race, religion, or activity in favor of the United Nations will be compelled to return to his domicile except for a criminal offence. *Liberal Soviet citizens*

²⁰⁸ Quoted in (Sanders et al. 1992:34).

uncovered after 11 February 1945 [date of Yalta Agreement] are excluded from this policy (emphasis added)... (Epstein 1973:38)

Unlike the slow return of German prisoners who were being used for reconstruction purposes across Europe, from May to September 1945 the United States alone transferred over 2 million Russian soldiers and civilians back to the Soviet Union, which was 89 percent of the total number of Russians it would end up repatriating (Elliott 1973:269). At the height of repatriation operations in late 1945, more than 50,000 Russians were being shipped daily from Western-controlled zones of Germany to Soviet authorities (Proudfoot 1957:211).

The Western powers even needed to resort to brute force on many occasions to compel Russian prisoners to enter into Soviet custody (Sanders et al. 1992:34). Many Russian prisoners thus died at the hands of their erstwhile liberators-turned-captors. Learning from these experiences, many Western officials turned to duplicity to convince prisoners to be shipped to a given destination. For instance, Britain controlled a prisoner camp in Lienz, Austria, which held thousands of anti-Bolshevik Cossack troops who had defected from the Red Army and joined German forces. In late May 1945, British officials announced to the 2,201 Cossack officers in the camp, as well as several hundred other Cossack elites, that they would be attending a conference. This raised some suspicion amongst the prisoners, but a British lieutenant gave his “word of honor as a British officer” they would be safe. The prisoners were then herded into trucks and transported directly to awaiting Russian forces. As one Cossack officer later remarked, “The NKVD²⁰⁹ or the Gestapo would have slain us with truncheons, the British did it with their word of honor” (Epstein 1973:78).

Facing the specter of a return to the Soviet Union, many prisoners chose to commit suicide instead. Of the remaining prisoners at the Lienz camp in Austria, 134

²⁰⁹ Refers to the commonly used acronym for the Soviet secret police.

killed themselves between June 1 and 2, 1945 (Elliott 1973:253). Both Western powers later amended their policy to only “facilitate” repatriations so that certain categories of prisoners could not be coerced into returning home, but in practice the narrow criteria of this policy meant that forced repatriation continued unabated (Epstein 1973:272-273).²¹⁰

The fate of many repatriated soldiers was of little doubt. Less than two years later in January, 1947, the Soviet government publicly pronounced that the Cossack leaders from the Lienz camp were found guilty of treason among other crimes and executed (Epstein 1973:81). The most notorious case probably involved the Russian General Andrey Vlasov, who was captured by Germany and later created an anti-Bolshevik Russian Liberation Army under Nazi control. He and his forces were perfunctorily turned over to Soviet control in May 1945, and he was executed along with his highest commanders on August 1, 1946 (Elliott 1981:199-200). For regular troops execution was also a fear, especially if they had been caught in German uniform. However, even for many Russian soldiers whose sole crime was to have found themselves in German captivity, it was not uncommon to be sentenced to between 15 and 25 years in Soviet labor camps (Elliott 1981:193). Table 25 below provides estimates of the different sorts of punishment awaiting Russian soldiers and civilians returning to their homeland.

²¹⁰ For instance, revised U.S. guidelines argued that only Russians caught in German uniforms, Red Army deserters, and those who “voluntarily rendered aid and comfort to the enemy” would be forced to return to the Soviet Union. However, the last category was so broad that it provided little restraint against further repatriations (Elliott 1981:110-111).

Table 25: The fate of returning Russian prisoners and civilians after World War II²¹¹

Death sentence or 25 years in labor camp*	20%
Sentence of 5-10 years in labor camp	15-20%
Exile to frontier regions of Siberia for not less than 6 years	10%
Sent as laborers to devastated areas and not allowed to return	15%
Allowed to return home, but difficult to find work	15-20%
"Wastage" (escaped, died in transit, etc.)**	15-25%

*Life was considered so arduous in labor camps that 25 years was effectively a death sentence.

**Final category is residual for those whose fate is not completely known. Range is provided since the previous set of figures do not add up to 100%.

The prospects for those Russian soldiers returning to the Soviet Union were thus daunting at best. Although the risks facing repatriated Russian soldiers and civilians may have been on the extreme end, persons not wanting to return to their country of origin often have good reasons to fear for their personal safety. Recognizing the general threat facing many individuals who had escaped or otherwise found themselves outside of their homeland, U.S. Secretary of State George C. Marshall stated unequivocally in Congressional hearings after the war on May 20, 1947 that “It is the fixed policy of the United States Government to oppose any forced repatriation of displaced persons” (Epstein 1973:1). However, during the war Marshall was the U.S. Army’s Chief of Staff and thus instrumental in coordinating the repatriation of Russian soldiers to the Soviet Union. Why then did the democratic powers act completely at odds with their own humanitarian principles and contribute, albeit indirectly, to the deaths of so many Russian prisoners?

²¹¹ Based on estimates provided in (Tolstoy 1977:408-409).

Some of the motivation appears to have been an unwillingness on the part of the democratic powers to upset their Soviet allies and make upcoming postwar negotiations over other issues, such as the future of a defeated Germany, or the nature of regimes in the Eastern European countries, even more difficult (Epstein 1973:26; Sword 1995:325).²¹² For the Soviet Union, the return of all prisoners served several ends beyond enforcing military laws which equated surrender with treason. Four years of war with Germany, much of it fought on Soviet soil, exacted an enormous toll. There was thus an enormous need for labor for reconstruction projects, and Soviet prisoners represented a valuable pool of workers (Elliott 1973:264). Perhaps even more important was the potential loss in both international and domestic prestige if hundreds of thousands of Soviet citizens were seen to actively reject the Soviet system and prefer to remain in the West. This even led Soviet Union to send a barrage of accusations that the Western powers were mistreating Russian prisoners in their custody and were not allowing them to return home as all Russian citizens would obviously want (Epstein 1973:91).²¹³ For these reasons, as early as August 23, 1944, the Soviet government issued a formal request to its Western allies that all Russian prisoners were to be returned “at the earliest opportunity” (Sword 1995:323).

A more pressing factor had less to do with Soviet demands for Russian prisoners, and more with concerns of the Western powers over the fate of their own soldiers who had fallen into Soviet hands. Because many German camps were located

²¹² The Western powers exhibited similar caution throughout the war concerning prisoner issues when dealing with Russia. When attempting to assemble a Polish armed forces in exile, Churchill was reluctant to press Stalin on the fate of thousands of missing Polish officers and other troops, which had been under Russian control. As Churchill noted, “No good could come of antagonizing the Russians.” Quoted from conversation between Churchill and Polish General Wladyslaw Anders, August 22, 1942 (General Sikorski Historical Institute 1961:422).

²¹³ This led to some strange charges, such as that the Western Allies were trying to poison Russian prisoners by dosing their food with methyl alcohol. The truth in this instance was that a group of Russians had broken into a tanker of methyl alcohol on a U.S. camp, consumed fatal levels of the substance, and died despite the best efforts of U.S. medical personnel (Elliott 1973:264-265).

in eastern parts of Germany and occupied territories of Eastern Europe, Britain estimated in September 1944 that upwards of two-thirds of British and Commonwealth prisoners would likely be liberated by the Red Army (Sword 1995:325). As the war neared its end around 60,000 U.S. prisoners alone fell under the control of Soviet forces (Elliott 1973:266). Both Churchill and Roosevelt were anxious even before hostilities ceased that Stalin was holding back the return of Western prisoners as a potential bargaining chip for gaining leverage on other matters.²¹⁴ Despite some frustration with the conduct of their Soviet ally, Roosevelt in particular expressed his concern over the pressures emanating from “the intense interest of the American public in the welfare of our ex-prisoners of war...”²¹⁵ Similar pressures on the part of the British public even led Churchill to write directly to Stalin pleading with the Soviet leader to personally intervene to ensure all British prisoners were returned as quickly as possible.²¹⁶

In light of the intense desire for the return of their own soldiers under Soviet custody, concerns over the fate of prisoners to be repatriated to the Soviet Union were given little weight (Gilbert 1986:1159, 1204-1205; MacKenzie 1994:512 fn.98). Some officials, such as Joseph Grew, U.S. Under-Secretary of State, were extremely worried about the humanitarian implications of forcibly repatriating millions of Russian prisoners and civilians. Grew’s position ended up being a minority view within the higher echelons of both democratic governments. The Secretary of State, Edward Stettinius, refused to entertain Grew’s concerns because he feared raising any

²¹⁴ Personal correspondence from Churchill to Roosevelt, March 16, 1945 (Loewenheim et al. 1975:675-676).

²¹⁵ Personal correspondence from Roosevelt to Churchill, March 3, 1945 (Kimball 1984:542).

²¹⁶ Churchill emphasized the importance of this issue from the beginning, “There is no subject on which the British nation is more sensitive than on the fate of our prisoners in German hands and their speedy deliverance from captivity and restoration to their own country.” Quote from secret telegram from Churchill to Stalin, March 21, 1945 (Gilbert 1986:1259).

humanitarian issues regarding Russian prisoners would cause “serious delays in the release of our prisoners of war unless we reach prompt agreement on this question [i.e. repatriation of Russian prisoners].”²¹⁷

The United States and Great Britain were thus quick to transfer Russian prisoners back to the Soviet Union once the war ended. The timing of the Western powers’ decision also reflects the change from Germany to the Soviet Union as the main threat of retaliation. Many Russian prisoners were captured well before the end of the war and remained in Western-controlled camps for months before they were eventually repatriated. Although some U.S. and British prisoners were falling into Soviet custody, up until the very end of the war the bulk of these prisoners were still under German control. Both democratic powers feared that transferring anti-Bolshevik Russian prisoners or those that had fought in the Wehrmacht would result in swift German retaliation against Western prisoners.²¹⁸ As General John R. Deane, the U.S. Military Attaché in Moscow and the main U.S. official who had co-signed the Yalta Repatriation Agreement, commented:

To avoid reprisals by Germany against our own men held as prisoners of war by the Germans we took the position that we would have to hold those Russians found in German uniform until the end of the war, when the danger of reprisals had been removed by victory (Deane 1947:187).

Concerns over reciprocity, first by Germany and then by Soviet Russia, appeared to have played a large role in shaping the decision of the Western Allies to forcibly repatriate Russian prisoners to their homeland. The democratic powers were also fully aware of the implications their policy would hold for the safety of millions of Russian prisoners. They seemed to have been more than willing to directly trade the

²¹⁷ Quoted from secret telegram from Stettinius to Grew, February 9, 1945 (Epstein 1973:45).

²¹⁸ There was a fear of reprisals against Allied prisoners in general, but both the United States and Britain realized that some citizens from Germany and other non-Allied countries had fought in Allied uniforms. Those prisoners were thus liable to be repatriated to their country of origin in a similar manner to any Russian who were to be sent to the Soviet Union for fighting in the Axis military ranks.

lives of millions of Soviet soldiers and civilians in order to ensure the safety of several thousand Western prisoners. In a somewhat morbid reference, U.S. Army historians gave the top secret documentary record of their country's repatriation of Soviet citizens the codename "Operation Keelhaul." Keelhaul refers to an old method of naval punishment, which involved dragging a bound individual from the bow to stern underneath a ship (Vance 2006:223). As one historian concluded, "The West's humanitarian concern appears, in retrospect, to have been restricted to Westerners" (Elliott 1973:265). It cannot be expected that democracies always uphold norms preached at home, since exceptions necessary occur. What seems more difficult from a normative perspective is the relative ease with which the democratic powers were willing to abandon the Soviet prisoners and civilians in their care.

From Soldiers to Civilians: Allied Bombing during the Second World War

As was remarked upon in previous chapters, studies on the treatment of civilians inside and outside of wars of all types dwarf the relatively small literature on prisoner issues. The purpose of this section is not to evaluate this impressive body of knowledge, but rather to consider more briefly any insight that might be gained from studying the treatment of civilians for understanding the normative and institutional approaches initially put forward for combatant abuse. Unlike the generally humane treatment accorded to German soldiers, civilians of the Third Reich were not nearly so fortunate. As the war progressed the Western Allies conducted an increasingly intense series of aerial bombing campaigns against German cities. Allied bombing during the war was estimated to have killed 305,000 civilians, wounded 780,000 more, and made 7.5 million homeless (Pape 1996:271-272). The fate of German soldiers and civilians, therefore, followed two very different paths during the war.

Why were civilians brutally targeted by the democratic powers, while prisoners on the whole avoided the worst excesses of violence? A complete explanation of

civilian victimization is beyond the scope of this study, since there is already a large and growing research agenda grappling with this question alone. However, assessing the treatment of civilians by the democratic powers in light of the normative and institutional approaches provides some indications for why civilians were more likely to become victims than was the case for prisoners.

The motives underlying the conduct of the United States and Britain toward German, and later Japanese civilians, suggests that democratic norms had little restraining effect.²¹⁹ This did not seem to be the case before the war, or in its early stages, when the democratic powers often spoke of civilian bombing in moral terms. After news broke in September 1937 that Japan was systematically bombing Chinese cities during the Sino-Japanese War, the Western Powers were quick to lead a League of Nations resolution condemning Japanese actions. In his famous “quarantine speech” of October 5, 1937, U.S. President Franklin Roosevelt also publically spoke against Japanese atrocities on moral grounds, saying:

...without warning or justification of any kind, civilians, including vast numbers of women and children, are being ruthlessly murdered with bombs from the air...Innocent peoples, innocent nations, are being cruelly sacrificed to a greed for power and supremacy which is devoid of all sense of justice and humane considerations (Roosevelt 1937).

Referring to both the bombings in China and the Spanish Civil War, the U.S. State Department issued a formal statement, which included that “Such acts are in violation of the most elementary principles of those standards of humane conduct which have been developed as an essential part of modern civilization.”²²⁰ Nevertheless, when the

²¹⁹ Some civilian and military officials did express moral reservations about the Allied bombing of civilians, but this was a minority view and far from the mainstream consensus that developed at upper levels of the democratic leadership (Downes 2008:137-139).

²²⁰ Quoted in (Dower 1986:38).

democratic powers were faced with similar situations once they were at war, the moral condemnations they reserved for others exerted little impact on their own behavior.

The conduct of the democratic allies toward civilians largely goes against the prescriptions of a normative approach, but what of institutional expectations? When examined in a closer light, both of the two main institutional restraints in the case of prisoners were much weaker or largely absent for the treatment of civilians.

The demands of reciprocity provided few incentives for either British or American forces to avoid targeting civilians.²²¹ First, in case of Britain it was initially a victim of a concerted German air campaign commonly known as the “Blitz” to destroy British industrial capacity, but also terrorize its civilians into submission (Downes 2008:142-143). In a corollary to the retaliation of victimized democracies to high levels of combatant abuse, Britain had little to lose by responding in kind since the enemy was already targeting its civilians systematically. Of course, the United States did not face similar bombings, since its homeland was far beyond the range of the German Luftwaffe. However, after Germany lost the “Battle of Britain” air war over the skies of England by May 1941, it lacked a real capability to target British civilians from that point forward. The Luftwaffe became even more thinly spread as many squadrons were shifted to the Eastern Front after June of the same year in order to support the invasion of the Soviet Union in Operation Barbarossa. After the entry of the United States into the war and the gains achieved through the clear material superiority of the Western Allies, Germany eventually lost the ability to even protect its own airspace by the end of 1943. The democratic belligerents thus did not have to

²²¹ In his work on civilian victimization, Downes makes an institutional argument that democracies are actually more likely to resort to abuse when they become increasingly desperate to shorten the war and reduce their costs (Downes 2007:876-877). However, Morrow has countered that in this case reciprocity provides just as good an explanation for instances of civilian victimization by democracies in Downes’s data set as does the latter’s desperation logic (Morrow 2007:570).

consider the risks of retaliation against their own civilians when planning bombing campaigns against German cities, which increased the likelihood that such campaigns would become more frequent and intense.²²²

Second, there was a much greater perception among the democratic powers that strategic benefits in the case of civilians were better gained by attacking rather than protecting them. Drawing on the visions of air power theorists from the interwar period, both the U.S. and British armed forces developed elaborate notions of the potential for bombers to revolutionize warfare by taking the fight directly to the most vital targets of the enemy's society (Biddle 2002:107). One of the most famous proponents of air power, General Giulio Douhet, viewed the bomber as the ultimate offensive weapon and explicitly recommended targeting civilian populations as one of the surest ways to achieve victory in war (Douhet 1983:9-10).

The U.S. and British air services developed different doctrines during the interwar period, though each still professed the superiority of air power over other forms of military force. The British Royal Air Forces (RAF) espoused a doctrine of area bombing entire cities to destroy industrial capacity, but also directly target the lives and morale of the enemy populace (Biddle 2002:76). In contrast, the critical node

²²² One interesting issue is why a greater degree of interdependence did not develop between civilian and combatant abuses. For instance, although German civilians became increasingly victimized, and the Third Reich lacked the capacity to respond in kind, it's not clear why they did not retaliate against the Allied soldiers in their custody. There is evidence that some steps were taken along these lines. Camps holding Allied prisoners were sometimes placed near cities or key industrial installations in an attempt to deter attacks (Vance 2006:186). Similarly, there was some discussion of rescinding orders that the Wehrmacht should protect downed airmen from civilian mobs on the ground, but these were never fully implemented (MacKenzie 1994:494-495). On top of risking retaliation against German pilots in Allied hands, Allied airmen often possessed more valuable intelligence than regular prisoners, which meant there was also a practical tradeoff by allowing the population to vent their frustrations. However, Japan made a clear distinction between Allied pilots and regular soldiers given the particular threat aerial operations posed to the Japanese homeland. While the treatment of regular prisoners was already brutal, Japan classified downed pilots as "captured enemy flyers" rather than prisoners of war and their abuses were usually even more unbearable (Roland 1996:157). Questions of linkages across issues related to the conduct of war, or in this case the absence of such linkages, provide interesting avenues for further research but are beyond the scope of this study.

theory espoused by the U.S. Army Air Forces (USAAF) stressed precision bombing of key industrial targets, which would lead to the collapse of fragile economies of modern enemies (Biddle 2002:160). Although different in emphasis, a scholarly consensus has developed that by late 1943 the two air forces gradually converged toward a common doctrine of indiscriminate civilian bombing (Parks 1995:153; Downes 2008:139). Between weather difficulties and increasing losses of planes resulting from attempts at precision bombing, the USAAF switched to so-called radar bombing whose precision was suspect and which was de facto the same as British nighttime raids against entire German cities. For the most part, the United States stated that it targeted military objectives, such as German rail yards. The fact that they relied on incendiary munitions during radar bombing, which were not effective against industrial targets, but extremely destructive of civilian dwellings, indicates their true intentions (Searle 2002:108-109).

The incentives and resulting conduct of the democratic belligerents was quite similar in the case of U.S. bombing of Japanese cities in the Pacific Theater. Many scholars have argued that the large-scale use of incendiary bombs to target Japanese cities, such as the notorious Tokyo firebombing which resulted in the deaths of between 80,000 and 100,000 civilians in a single night, were driven by racial demonization of Japan by U.S. forces, while “civilized” German civilians were spared the worst horrors (Dower 1986:40-41). However, many German cities were attacked using similar tactics, such as the bombing of Dresden which killed an estimated 40,000 civilians. This suggests Allied air strategy was more similar than different in both theaters and cannot be explained primarily as a function of racial differences between the two enemies of the Western powers (Searle 2002:104; Downes 2008:139-140).

Beliefs about the strategic benefits of indiscriminate bombing to undermine the economic capacity and morale of the enemy to continue fighting, whether in Germany or Japan, can therefore be seen at the very least as a permissive cause of civilian targeting. Attention to these benefits made it much more likely the democratic powers would turn to targeting civilians in contrast to their incentives with regards to protecting enemy combatants. Contradicting the expectations of the interwar air power theorists, later scholarly research has shown that strategies aiming to punish the adversary's citizens are actually that not as effective as using aerial bombing to directly target military forces on the ground (Pape 1996:10; Horowitz and Reiter 2001:160).

These findings have not stopped later incarnations of classic air power proponents, which put various levels of emphasis on the targeting of civilian populations (Warden 1997-1998:174; Dunlap 2000:10). The continued popularity of relying on air power despite evidence to the contrary does not bode well for the safety of civilian populations in future conflicts.²²³ Both democratic institutional incentives involving concerns over reciprocity and the strategic benefits from good conduct were largely absent in the case of civilians, which goes some way to accounting for the difference in the treatment of combatants in comparison to civilians during the Second World War. In contrast, normative principles might be expected to operate even more strongly in the case of protecting innocent civilians compared to soldiers on the ground. These normative expectations were not met during the war, since the conduct of democratic belligerents was in fact more humane overall toward enemy combatants than with regards to civilians.

²²³ For instance this debate continues to play out in the popularity among many government officials to widen the use of unmanned aerial drones in fighting al Qaeda versus those arguing the resulting civilian casualties are counterproductive to broader U.S. aims (Drew 2009:A1; Kilcullen and McDonald Exum 2009:WK13).

When Democracies Go Bad: Considering Instances of High Combatant Abuse

The discussion in the previous section offers some more sober evidence of the seeming virtues of democratic belligerents regarding the treatment of enemy combatants. The postwar treatment of Axis prisoners in Europe showed the Western Allies were far from angelic, while the treatment of Soviet prisoners upon returning to their homeland suggested that democracies could tolerate higher levels of combatant abuse, at least when it was not being directly committed by them. Alongside the bright picture of the United States and Britain ensuring that German prisoners were accorded the highest standards during the Second World War looms a darker side to democratic captors. Although only reaching mid-levels of abuse in comparison to the brutalities meted out by Japanese captors, U.S. treatment of prisoners was far from ideal in the Pacific Theater during the war. The United States was at least encouraged to avoid the highest levels of abuse in this case in part because of the potential gains from interrogating Japanese prisoners that were captured alive.

As the overall quantitative analysis demonstrated, democracies on average are likely to limit themselves to lower levels of violence against enemy combatants than nondemocracies. However, as Table 26 below illustrates, there have been several cases where democracies resorted to the highest levels of combatant abuse and appeared to act more like many of their autocratic counterparts.

Table 26: Examples of high levels of combatant abuse committed by democracies

Democratic Captor	Victim	War	Year(s)
France	China	Boxer Rebellion	1900-1901
Greece	Bulgaria	Second Balkan War	1913
United States	North Vietnam	Vietnam War	1965-1973

Some cases remain consistent with an institutional approach, where democratic violators were fighting enemies committing high levels of abuse and faced few incentives not to respond in kind. During the 1900-1901 Boxer Rebellion the United

States, Britain, and France all sent troops as part of a relief expedition to save Western missionaries and other civilians threatened by rising violence in China. Boxer fighters resorted to horrible levels of abuse against Western civilians and soldiers alike.

Torture was a common fate for soldiers from the Relief Expedition, which usually ended in their execution (Keown-Boyd 1991:116). Decapitation and mutilation were also frequently committed by Chinese soldiers and in several instances commanders actually offered rewards to their troops if they brought back the severed heads of foreign soldiers (Martin 1968:72). Facing the prospect of surrender, many Western soldiers preferred committing suicide rather than face the trials of Chinese captivity, an unusual choice given their cultural background (Cohen 1997:189).

Encountering such high levels of combatant abuse, the Western powers more often than not responded in kind. Facing an ideologically-driven foe whose movement was based around anti-Western principles, there was little strategic benefit to be gained from good conduct. For instance, the Western Legation, which was under siege in the Legation Quarter of Beijing, preferred to bayonet captured Chinese prisoners to save bullets for the defense of their embattled position (Keown-Boyd 1991:115-116). British and U.S. forces sometimes sought to keep Chinese prisoners for labor purposes, nevertheless historical records indicate that U.S. commanders issued orders to give no quarter in many battles (Martin 1968:145; Vance 2006:51). As the war wore on and the Relief Expedition gained the upper hand, U.S. soldiers developed a colloquial term of “Boxer-hunting” for scouting mission seeking to find remnants of the Chinese forces (Cohen 1997:192).

Reciprocity defined the conduct of the Western powers, since it was viewed that there was little incentive to hold back given the violence committed by their Chinese adversary. As one historian noted, when direct evidence was found of atrocities committed by Chinese troops, such as the possession of severed heads,

Western captors often “responded by killing every enemy without mercy” (Martin 1968:72). With reciprocity ruling the day, another scholar remarked that “As both Chinese and foreign observers noted, there was little to choose between Chinese and foreign brutality in the summer of 1900” (Cohen 1997:182).

In other cases democratic constraints on abuse against enemy combatants can be overcome by competing incentives. As the overall theory of combatant abuse put forward in Chapter 2 made clear, the second component involving the nature of the bloodshed can also matter a great deal in the conduct of states during war. In the Second Balkan War beginning June 1913, Bulgaria became the victim of aggression by its previous allies, Serbia and Greece, over the territorial spoils of their war earlier that year against the Ottoman Empire. By the end of the war, Montenegro, Romania, and even the Ottoman Empire itself joined the Greco-Serb side to conquer land at Bulgaria’s expense. Atrocities were common on the battlefield with few prisoners taken (Hall 2000:136-137). Democratic Greece conducted itself in just as extreme a manner as its nondemocratic partners. A variety of factors certainly contributed to the horrors inflicted during the war, but the desire to annex territory from the adversary was a key cause of the high levels of combatant abuse. The patterns of abuse mirrored those of the First Balkan War lasting from October 1912 to June 1913, where the only difference was the primary victim was Turkey rather than Bulgaria in the subsequent conflict.

In both wars, aggressors sought to kill enemy troops in order to clear their way for a more assured occupation of newly conquered territory. Greece was just as influenced by this territorial incentive as its allies and issued explicit orders to its soldiers to this effect. A letter from one Greek soldier makes clear both the official sanction of combatant abuse by the Greek leadership and the motives underlying the order: “We have taken a small number of prisoners and then we have killed, such

being the orders received...in order that the dirty Bulgarian race may not spring up again” (Carnegie Endowment 1993:148).

Even when territorial motives are not present, the severity of the conflict can heighten incentives for combatant abuse. The U.S. intervention in Vietnam from 1965 to 1973 gradually devolved into a long drawn-out counter-insurgency war, which took on many attributes of attritional warfare (Downes 2008:60). U.S. treatment of North Vietnamese and Vietcong prisoners became increasingly brutal as the war went on. A general culture of brutality and torture developed within the U.S. armed forces on the ground in Vietnam, which was implicitly sanctioned and sometimes actively encouraged by high-ranking military officials (Bourke 1999:167; Forsythe 2005:76). Vietcong prisoners were viewed as particularly stubborn and “During interrogation they [i.e. prisoners] were threatened, abused and tortured in what appears to have been an officially condoned policy of extracting intelligence by violence” (Beaumont 1996:285). In an attempt to disrupt the Vietcong’s vast command, control, and communication network, the U.S. government instituted Operation Phoenix in 1967 to target civilian leaders of the network by infiltration, interrogation, or often execution (Asprey 2002:910-911). While primarily focused on the civilian leadership, the program played a role in combatant abuse by identifying Vietcong suspects who were then captured and often tortured or killed by South Vietnamese forces (Moyar 1997:87-107; Vance 2006:422). Counter-insurgency operations in Vietnam were thus typified by high levels of combatant abuse.

This brief review of cases involving democracies committing high levels of combatant abuse demonstrates that neither democratic normative nor institutional forces can completely prevent the resort to violence against enemy combatants. Although the role of reciprocity as always looms large, the cases suggest the nature of

the bloodshed wrought by war also needs to be examined in greater detail to develop a fuller understanding of the motives leading states to abuse enemy combatants.

Conclusion

This chapter sought to determine the precise logic underlying the general propensity for democracies to treat enemy combatants in a more humane manner than their autocratic adversaries. Separate normative and institutional approaches were offered for the observed distinctiveness of democracies concerning prisoner issues, which were then evaluated using multiple methods and sources of evidence. Additional quantitative analysis demonstrated that in situations where each approach diverged in terms of the expected behavior of democracies, the institutional account performed better than the normative alternative. Case studies looking at the conduct of the United States and Britain during the Second World War provided further support for the role of institutional factors in shaping their treatment of Axis prisoners. For both countries, institutional incentives relating to fears of reciprocity and sensitivity to the strategic benefits of good conduct appear to have played a key role in prisoner policy, while normative commitments to nonviolence and the sanctity of individual rights for enemy combatants were found to carry little weight.

The conduct of democracies is by no means always so benevolent, which was evident in other ways during the Second World War as well as other conflicts. Several additional implications based on more nefarious behavior by both democratic belligerents during and after the Second World War were examined and found to be more consistent with an institutional approach. In the case of postwar treatment of Axis prisoners, the forced repatriation of Russian soldiers, and the targeting of civilians, when institutional restraints based concerns over reciprocity or strategic advantages were weak or absent then U.S. and British conduct toward prisoners correspondingly worsened. A review of several cases of high levels of combatant

abuse committed by democracies also shows that during these episodes institutional restraints were weak or were overridden by competing concerns related to war aims or the severity of the fighting. A full explanation for the role of regime type in explaining combatant abuse needs to consider not only when institutional restraints are more or less likely to operate, but also must take into account additional factors such as the nature of the bloodshed during war.

Although this chapter sought to examine the motivations underlying the conduct of democracies during war, there are several ways in which this analysis can be extended. The case studies focused overwhelmingly on U.S. and British behavior during a single war in addition to some attention to French actions, but it remains unclear how these arguments would hold when looking at other democracies. Israel is perhaps the most readily available example, especially since it has fought several wars against Arab neighbors beginning with its independence in 1948. Israeli treatment of prisoners has differed greatly across wars and provides an interesting source of variation to be examined in greater detail (Gutman and Rieff 1999:29-32). War has not been confined to states, since one of Israel's most enduring conflicts has been with various Palestinian and Lebanese non-state belligerents. To what degree is the conduct of Israel or other democracies guided by normative constraints versus institutional incentives related to reciprocity and strategic advantages? This question remains open, but is certainly worthy of further analysis for understanding the conduct of Israel in its own right, but also for evaluating the general effects of democracy on the conduct of states during war. Considering other democratic belligerents, but also the conduct of democracies in conflicts other than those between states, provide further opportunities for understanding the role of regime type and the abuse of prisoners.

I also explicitly limited this chapter to the narrower issue of democracy, but the conduct of autocracies also deserves greater attention. As recent research has shown,

there are potentially important differences in the behavior of different sorts of autocracies when it comes to armed conflict (Peceny and Beer 2002:17). Some scholars even find that particular institutional characteristics make some autocracies behave quite similarly to democracies in certain contexts (Weeks 2008:37). Although democracies may be more than likely on average to treat prisoners well, several cases demonstrate that not all autocracies are brutal captors. As noted earlier, World War II already provides one of the starkest cases where German conduct on the Eastern Front was extremely harsh compared to its treatment of Western prisoners. Examining the conduct of autocracies on their own terms, and in particular searching for possible sources of variation between different autocracies, is a useful extension of this chapter's focus on democratic belligerents.

The institutional constraints related to the concerns of democracies over reciprocity and strategic advantages might not operate in similar ways in the case of autocracies, but are still likely present in some form. Similarly, autocracies might not share similar norms of individual rights and other democratic principles, but this does not mean that autocracies are deaf to normative appeals. For instance, historical work on Tsarist Russia has shown how the military and civilian leadership was strongly influenced by humanitarian ideals of the 19th century, which guided its approach to formulating and complying with the laws of war (Myles 2002:16-19). Just as not all democracies are alike, the historical record indicates that autocratic belligerents often differ greatly in their treatment of enemy combatants. Delving more deeply into the prisoner policies of autocracies promises to provide a better understanding of the overall role of regime type in the conduct of states during war.

CHAPTER 6
A CLOSER LOOK AT THE NATURE OF THE BLOODSHED:
TERRITORIAL ANNEXATION, COMBATANT ABUSE, AND THE KATYN
MASSACRE

Introduction

The nature of the belligerent component of the theoretical framework discussed in the previous chapter focused on the internal characteristics of the war participants, especially the role of democracy. The second main component involving the nature of the bloodshed shifts gears by emphasizing the importance of key attributes of the conflict itself, rather than those of the belligerents, for understanding broader patterns of combatant abuse. This chapter takes up one of those attributes of the nature of the bloodshed, which concerns the specific aims states seek to achieve through the resort to war, in particular the objective of territorial annexation. States pursue a variety of aims through warfare, but in many ways the quest for territory represents one of the highest possible goals. By looking to annex territory from their adversary, states are literally attempting to redraw the map of the world. The outcomes of wars of territorial annexation ultimately have consequences for large portions of the population in the areas under contestation, and in particular for the troops fighting on the ground who become prisoners.

States seeking to annex lands from their adversary usually do not wish to do so for only a short period of time, but rather want to consolidate their gains permanently, or at least for as long as possible. Enemy soldiers represent a particularly salient threat to the long-run tenure over newly conquered lands, given their military training and likely ability to form a resistance movement even after the initial war has ended. Looking into the future, states desiring to annex territory have strong incentives to kill as many enemy combatants as possible to prevent the rise of later threats to their rule.

The relative incentives to abuse prisoners as a preventative measure is likely influenced in part by the particular territorial objectives of would-be conquerors. States seeking to fully absorb neighboring lands as part of a larger revisionist project are likely to perceive enemy combatants as an even greater threat and eliminate them accordingly. On the other hand, states seeking more limited aims of occupation or indirect rule may have less need or reason to abuse enemy combatants to a similar extent.

The purpose of this chapter is to examine the validity of the territorial logic in a more systematic manner. The chapter will proceed as follows. First, the logic of territorial annexation, and of revisionist re-absorption in particular, as a factor in the resort to combatant abuse in general is discussed in greater detail. I pay special attention to additional implications of the territorial motive for understanding patterns in abuse that are not easily captured in the earlier large-n analysis. For instance, territorial annexation leads to expectations over the use of varying levels of violence against different groups of enemy combatants as a function of their relative threat to the occupier. Those prisoners that present the greatest threat, such as the officer corps given their training and leadership skills, are often targeted the most fiercely.

Second, I evaluate the role of territorial motives through a comparative analysis of Soviet conduct toward prisoners during the interwar period and World War II. At first glance, the Soviet Union might appear to be an easy case for finding instances of combatant abuse given the regime's penchant for resorting to extreme forms of violence against its own citizens, especially during the Stalinist period. Soviet captors certainly exhibited horribly levels of cruelty at times, but they were not always so brutal toward their prisoners. What accounts for this variation? One of the other interesting elements of Soviet conduct during this period is that substantial variation is evident in Soviet war aims as well as its treatment of prisoners during

other conflicts. I begin by considering cases of Soviet territorial re-absorption, such as during the Second World War in Poland, the Baltic countries, as well as the Romanian regions of Bessarabia and Northern Bukovina. Soviet territorial aims in these countries were quite similar, and combatant abuse correspondingly followed similar patterns. I then turn to several cases where the Soviet territorial motive was much weaker, such as the Winter War against Finland and several conflicts during the interwar period against Asian adversaries. In accordance with expectations from a territorial perspective, I find that the resort to abuse was much less apparent except when dealing with countervailing forces.

The comparative analysis points to an association between territorial motives and combatant abuse, but does not uncover the precise logic underlying this relationship. In the third section I seek to uncover the territorial motive through an in-depth examination of the case of Soviet treatment of Polish prisoners during the early stages of the Second World War, which culminated in the Katyn massacre of thousands of Polish officers. As noted above, this case might appear to be an easily-explained instance of combatant abuse given the Soviet Union was led by a bloodthirsty tyrant, Stalin, who was not averse to wreaking terror against any group opposing him. The Polish prisoners of 1939-1940 might then simply be viewed as the latest in a long list of victims from the Stalinist era.

Even accepting that Stalin was one of the most extreme leaders of the 20th century, this does not mean there was not a discernable logic in the Soviet use of violence against enemy prisoners. Combatant abuse was by no means constant, as certain groups of Polish prisoners were treated much more brutally than others. Patterns in the timing, method, and targeted nature of combatant abuse against the Polish prisoners reveals the Soviet Union was guided more by a brutal yet

instrumental strategy to secure newly annexed Polish territories rather than by an instinctual lust for violence.

The fourth section then considers several alternative explanations for the Katyn massacres. I find that the territorial explanation generally performs better in accounting not only for the overall level of combatant abuse, but also for the particular patterns of violence during this episode. The final section then summarizes the main arguments and discusses some of the implications of the role of territory in explaining combatant abuse.

Taken together, these cases illustrate that just because the Soviet Union was an autocratic state – and a highly brutal one at that – even dictators respond to the wider context of the war in which they find themselves and adjust their policies toward enemy combatants accordingly. The Katyn case involves an autocracy committing horrible atrocities as expected in many ways by the nature of the belligerents component of the theoretical framework. However, patterns of abuse within the Polish massacre, as well as differences in Soviet conduct in other conflicts, indicate that autocracies can be influenced by the nature of the bloodshed when deciding whether and how to resort to combatant abuse. A full theory of combatant abuse must, therefore, consider not only the attributes of the states themselves, but also elements of the wider war they are fighting.

The Logic of Territorial Annexation and Combatant Abuse

The incentives linking territorial conquest to combatant abuse have just as much to do with what happens after the war as events taking place during the conflict itself. This stands in contrast to incentives involving regime type or the severity of the fighting, which often focus on more immediate concerns of fears over retaliation in the near term, or the likelihood of winning the current war on the ground. In the case of territorial annexation, states seeking to grab land from their adversary also need to

consider how they will occupy and hold on to their newfound spoils well into the future. Existing populations in these areas represent a potentially valuable resource to be exploited, but also a point of opposition that may ultimately frustrate a conquering power's ambitions (Liberman 1995:4-5, 13-14). Civilians have been described as a potential "fifth column," which could threaten an occupier by creating a resistance movement to its rule (Downes 2008:178). The threat posed by civilians in turn might explain why they are so often victimized during wars involving territorial annexation.

If civilians are viewed as "fifth columns," then captured enemy combatants might be more appropriately considered as sixth, seventh, and eighth columns combined. In comparison to the wider civilian population, combatants are often of prime fighting age and possess training in military operations and the use of weapons. These skills and attributes make captured combatants an especially salient threat to the occupying power, since they have the potential not only to fight, but more importantly to lead domestic opposition groups. Wars involving territorial annexation are thus much more likely to be associated with high levels of combatant abuse. Would-be occupiers should seek to target enemy combatants in their custody, as well as any others they may later be able to round up, since these actors present the greatest threat to their plans of consolidating control over annexed territories. When looking at wars involving different objectives, one would expect that the prospects for prisoners caught in those involving territorial annexation should be particularly poor.

Not all wars of territorial annexation may be created equal, however, and the relative incentives for resorting to high levels of combatant abuse may differ depending on the particular territorial aims of the aspiring state. The preventive rationale underlying combatant abuse is likely highest in revisionist wars of territorial re-absorption. In such conflicts occupiers are seeking to completely subsume the territory under question. The very presence of enemy combatants is often viewed as a

direct threat to the occupier's plans for extending its existing national boundaries. The Katyn massacre, where the Soviet Union sought to regain previously lost territory in Eastern Poland, represents a clear case of territorial re-absorption. In a similar manner after the fall of the Soviet regime in the early 1990s, the newly independent states of Armenia and Azerbaijan fought a fierce war to claim the disputed region of Nagorno-Karabakh for themselves. Both sides committed horrible atrocities against each other's prisoners in pursuit of this territorial objective (Croissant 1998:87).

The preventive elimination of future resistance through combatant abuse is not a strategy without risks. It may engender opposition from surviving elements of the enemy population, which may only fuel further grievances against the occupier. High levels of combatant abuse also risk international condemnation, which may thwart the occupying power's broader strategic interests. As information surfaced regarding the Soviet role in the Katyn massacre, the Soviet Union needed to fight a constant rearguard action in the wider international community (Cienciala et al. 2007:232).

States with more modest territorial ambitions may thus be less likely to assume the risks and expend the resources necessary to conduct a widespread program of combatant abuse. Enemy combatants likely do not pose a similar degree of threat when seeking more limited forms of occupation, as in French plans over parts of the former Ottoman Empire during 1919-1921 Franco-Turkish War. Although far from ideal, French abuses of Turkish prisoners certainly occurred but were not as extensive or widespread (Zeidner 2005:108). Of course, even in less ambitious instances of territorial annexation enemy combatants may represent a threat. The preventive incentives for combatant abuse thus are always present in one form or another across all instances of territorial annexation, though the relative strength of these incentives may vary a great deal.

The general territorial logic also provides several additional observable implications beyond the overall level of combatant abuse inflicted by captor states. First, the threat posed by different segments of the prisoner population is not necessarily equal. Although all combatants may possess a minimum level of military skills, enemy officers likely pose a much more severe threat. Officers have not only likely received more extensive military training and have greater combat experience, but they also possess valuable leadership talents necessary to coordinate resistance operations. It follows that those segments perceived as most threatening to the conquering state would most likely be abused to the greatest extent. All prisoners might suffer severely, but the worst levels of abuse are expected to be reserved for groups like officers given their skills and consequent threat. One further implication is that those prisoners from the targeted groups deemed to be most capable are likely the first to be eliminated.

The territorial logic also provides expectations regarding the timing that abuse is most likely to occur. If control over the annexed territory seems assured, then the abuse of combatants should follow in relatively short order. Since part of the motivation is to destroy any possible future threats, then conquering captors have every incentive to enact any overall plans of combatant abuse as soon as possible. On the other hand, if the conqueror's tenure over the newly gained territory seems precarious because of possible threats from outside challengers, then they ironically may have less incentive to engage in abuse. As the course of the Second World War duly illustrates, belligerents can often quickly change sides and previous enemies may become valuable allies. Outside threats may lead occupiers to hold remaining enemy combatants in reserve as a potentially useful ally in later conflicts with mutual enemies.

Territorial annexation provides several testable implications not only for the overall level of combatant abuse, but also for particular patterns in how and when the abuse is enacted. In the next section, I assess the general relationship between territorial motives and the overall level of combatant abuse through a comparative case study of several wars involving the Soviet Union.

Territorial War Aims and Combatant Abuse in Comparative Perspective: The Case of the Soviet Union

The Soviet Union might seem like a strange case to consider for placing combatant abuse in a broader comparative perspective. At first thought, there might appear to be little to compare other than a series of unending depravities and suffering for those prisoners unlucky enough to fall into Soviet hands. Even though the Soviet Union was certainly quite brutal at home, there is little evidence its behavior inherently translated into the highest levels of combatant abuse on the battlefield during war. When examining cases of Soviet conduct during its many wars of the interwar period and the Second World War, the Communist regime actually demonstrated a remarkable range of behavior toward prisoners. While there are certainly cases of very high brutality, such as in Poland and the Baltic Republics, the Soviet Union also exhibited impressive restraint during wars against such disparate adversaries as China and Finland.

I argue the key for understanding differences in Soviet conduct lies in the particular aims the Soviet Union was seeking through war rather than any particular attributes of the Communist regime itself. I divide Soviet wars during this period into those with clear aims of territorial re-absorption versus other types of conflicts. By examining these wars, I then argue that in those conflicts with territorial aims, the Soviet Union was remarkably more willing to resort to combatant abuse.

Soviet Conduct toward Prisoners during Wars of Territorial Re-absorption

After Tsarist Russia's defeat and collapse during the First World War, large sections of the former Russian Empire broke away to gain independence or were taken over by other states. Throughout the interwar period, the new Soviet regime continued to harbor revisionist aims to regain lost tracts of land in Eastern Europe as part of its larger grand strategy. Table 27 below lists several of the more notable examples of Soviet territorial ambitions during this period and the subsequent treatment of enemy combatants caught in these regions once the Soviet Union fulfilled its aims.

Table 27: Examples of Soviet aims of territorial re-absorption during the Second World War

Victim	Level of Combatant Abuse
Poland	High
Estonia	High
Latvia	High
Lithuania	High
Bessarabia and Northern Bukovina	High

The Polish case will be examined in greater detail in subsequent sections, but was typified by extreme levels of brutality against Polish prisoners as the Soviet Union sought to establish control over Eastern parts of Poland during its partition of the country with Nazi Germany (Malcher 1993:9-23). The remaining episodes did not take place in the context of an interstate war and were therefore not included in the quantitative data set, but are still relevant for assessing the role of territorial motives. The Baltic states of Estonia, Latvia, and Lithuania realized they stood no chance of defeating their larger Soviet foe and offered little resistance to the eventual Russian advance. Similarly, Romania felt it had little choice but to acquiesce to Soviet demands over Bessarabia and Northern Bukovina in an effort to prevent the annexation of their entire country. Soviet incursions into the territory of its Balkan

neighbor eventually created a revisionist Romania of its own that later allied with Nazi Germany in part to regain lost territory.

Even though these additional cases do not strictly represent instances of interstate war combatant abuse, they are useful for putting the analysis of the Katyn massacre that follows in a broader perspective. Each represents an additional episode of Soviet territorial re-absorption and provides an opportunity to examine whether territorial motives had a similar effect on Soviet conduct toward enemy combatants. Stalin and the Soviet leadership perceived their aims in all of these territories in a similar manner (Weeks 2002:53). All were explicitly included in the Secret German-Soviet Protocol of August 23, 1939, which outlined each member's respective spheres of territorial interest in Eastern Europe.²²⁴

In the case of the Baltic states, Soviet policy was initially more restrained compared to what was happening in Poland. At the same time as Soviet forces were occupying Eastern Poland, governments from the Baltic countries were instead forced into signing trade and mutual assistance pacts with the Soviet Union during the fall of 1939. The agreements included provisions for Soviet garrisons on Baltic territory. The expressed purpose of the troop presence was to protect each country from outside threats, but they also proved beneficial from the Soviet point of view in facilitating a full occupation force at a later date (Roberts 2006:43-44; Wettig 2008:20).

This precarious arrangement would last less than a year. The Soviet Union took advantage of the diversion of the world's attention to the German victories in Western Europe to invade the Baltic states in June 1940. Soviet actions indicated that "Moscow's principal aim was now the reinforcement of the Soviet 'security system'

²²⁴ For the text of these additional articles, see (Cienciala et al. 2007:41). Finland is also included in the list of the Balkan states, but as will be discussed in greater detail below Soviet aims in this state would ultimately be much more moderate. In the protocol, Lithuania is initially listed as falling under the German sphere, but the Soviet Union would eventually annex this country as well.

following the pattern of territorial annexation” (Pons 2002:201). The administrative and coercive apparatus of each of the Baltic states were replaced with Soviet officials. Elections were held later the next month in July, but voters were only allowed to choose from a list of candidates who were all from the Communist Party and specifically selected by Soviet authorities (Roberts 2006:56). The new “People’s Parliaments” then voted unanimously to incorporate their countries into the Soviet Union.

Soviet annexation in the Baltic states took place with little armed resistance compared to Poland, but patterns in the treatment of combatants and civilians were remarkably similar. From July through July 1940 alone, around 25,000 “undesirables” were deported from the three countries to labor camps in the Soviet Union (Roberts 2006:45). All told, approximately 35,000 Latvians, 60,000 Estonians, and 75,000 Lithuanians were executed or deported during the Soviet annexation of the Baltic states (Montefiore 2004:334).²²⁵ Many of these victims were members of the various Baltic armed forces, who were viewed as particularly undesirable given their potential threat to Soviet rule.

The officer corps in the Baltic states suffered a similarly brutal fate to that of their Polish counterparts. After the formal incorporation of the Baltic states into the Soviet Union, each of the national armed forces was subsumed under the Red Army. Command of the new Soviet constituent forces, however, was taken over by Soviet commissars to ensure that most Estonian, Latvian, and Lithuanian military officers

²²⁵ As with many Stalinist atrocities, the exact number of victims will probably never be known. There are also disagreements in the case of the Baltic states. Others find similar figures for Latvia and Estonia, but much smaller numbers for Lithuania. For instance, when also including those who were forcibly conscripted into the Red Army along with persons who were murdered or deported, one historian gives the following figures for the number of victims: 59,732 in Estonia, 34,250 in Latvia, and 30,485 in Lithuania (Dunsdorfs 1975:22). Even with these differences, there is little doubt that thousands suffered during the Soviet occupation.

retained no significant leadership role. Native officers were then deported to the Soviet Union under the pretense that they were to receive “additional training.” The vast majority received no such instruction, but were rather summarily executed or sent to labor camps for eventual liquidation (Wettig 2008:21). The Baltic deportations paralleled closely the Katyn massacre as both pointed to a common policy of decapitating potential future leaders of resistance in the indigenous population (Conquest 1986:219). Just as in Poland, Baltic officers were viewed as a particular salient threat to Soviet control over the newly gained territories, and consequently these groups were targeted using particularly brutal tactics.

Less evidence is available regarding Soviet treatment of enemy combatants in the Romanian lands of Bessarabia and Northern Bukovina. The Soviet Union demonstrated similar claims that Bessarabia had been “stolen” by Romania in the aftermath of Russia’s defeat during the First World War. Demands for Northern Bukovina were more of a surprise, since similar claims were not evident from previous Russian regimes.²²⁶ Nevertheless, both were absorbed by the Soviet Union in June 1940 in a similar manner to events in the Baltic countries (Weeks 2002:71). Soviet policies toward all segments of society in Bessarabia and Northern Bukovina, including the armed forces, were correspondingly as brutal as those enacted in Polish territories (Roberts 2006:56). It should be noted that while supportive for the overall territorial argument, the outcome of the Bessarabian and Northern Bukovinian cases is more problematic from a cultural perspective. Unlike the Baltic states, which were indeed quite culturally distinct from the Soviet leadership, the annexed Romanian lands shared many cultural similarities to their Soviet conquerors. The fact that

²²⁶ The area possessed greater historical ties to the earlier Austro-Hungarian Empire rather than Tsarist Russia.

combatants in both areas were abused suggests that cultural affinities did not play a determining role in these instances.

In sum, when the Soviet Union possessed territorial aims in other countries during this period, then prisoners in these lands suffered more often than not horrific levels of violence. The reasons for this abuse appear to have been rooted in an underlying motive of eliminating potential future threats to the Soviet Union's continued hold on newly incorporated territories.

Combatant Abuse during Soviet Wars without Clear Territorial Aims

The cases discussed up until this point all involve extremely high levels of combatant abuse and suggest the Stalinist Russia does indeed live up to its notoriety as one of the most ruthless regimes of the 20th century. When turning to conflicts where the Soviet Union did not demonstrate objectives of territorial re-absorption, the record regarding Soviet conduct becomes more mixed. Table 28 below lists several examples of wars where the Soviet Union did not demonstrate similar territorial war aims. Except for the war against Nazi Germany, in all of the other cases the level of combatant abuse inflicted by the Soviet Union was much more modest compared to the cases of territorial re-absorption. These cases also pose an additional problem for a cultural argument, since in general the levels of combatant abuse inflicted were quite low despite cultural differences between the Soviet Union and each of these adversaries. Other factors thus appear to be necessary in explaining the outcomes in these conflicts with the relative role of territorial objectives figuring most prominently.

Table 28: Examples of wars involving the Soviet Union without aims of territorial re-absorption

Victim	War	Level of Combatant	Year(s)
China	Sino-Soviet War	Low	1929
Japan	Changkufeng	Mid	1938
Japan	Nomonhan	Low	1939
Finland	Winter War	Low	1939-1940
Germany	World War II (Eastern Front)	High	1941-1945

The Winter War against Finland is particularly useful for assessing the general role of territorial motives in combatant abuse. Territory certainly played a role in the conflict, but it was more a function of Soviet concerns over the proximity of the Finnish border to Leningrad, which was around 20 miles away from one of the Soviet Union's largest and most important cities.²²⁷ The Soviet Union feared Finland could be used as a launching point for an attack against Leningrad by Germany, Britain, or France, with or without the consent of the Finnish government (Calvocoressi et al. 1989:115). The Soviets in fact offered to exchange a much larger parcel of Russian territory for the Finnish land adjacent to Leningrad. Soviet aims in this war were more modest and sought to occupy an adjacent slice of land as a buffer zone rather than seek complete territorial annexation. As Stalin personally remarked in private meeting with other Soviet officials, "we have no desire for Finland's territory. But Finland should be a state that is friendly to the Soviet Union" (Roberts 2006:48).

The two sides were unable to come to an agreement and war ensued. Nevertheless, the disputed land was sparsely populated and those groups living there were for the most part not of Finnish origin, but rather from the Karelia people who were ethnically distinct from both Russians and Finns. The motive to abuse combatants to ensure territorial conquest was thus less present in this case, and was

²²⁷ On top of being a main population center, Leningrad and its surroundings accounted for between 30 and 35 percent of the entire Soviet defense industry (Roberts 2006:52).

reflected in the lower levels of violence against prisoners during the war. With the absence of strong territorial objectives, Finnish prisoners were on the whole treated fairly well (Hannikainen et al. 1992:85-87).

As in the Winter War, the Soviet conflict with Nazi Germany from 1941 to 1945 also involved culturally different foes, but was instead associated with extremely high levels of combatant abuse by all parties involved (Overly 1997:76; Vance 2006:460). The Soviet Union was on the defensive for much of the war and did not seek to aggrandize itself at Germany's expense unlike in the Polish, Baltic, and Romanian cases. Despite a similar level of territorial ambition, reciprocity appears to have been a determining factor in this conflict. The ferocity of Soviet treatment of German prisoners once the war turned in its favor was partially motivated out of revenge for earlier abuses committed by Germany when it had previously held the upper hand (Bartov 2001:124). The German case thus does not necessarily undermine the role of territory in explaining combatant abuse, but rather demonstrates that other factors can sometimes play a much greater role in shaping a captor state's prisoner policies.

Soviet Russia was also involved in several conflicts during the earlier interwar period against various Asian adversaries. None of these conflicts involved similar territorial aims and, as expected, the levels of combatant abuse were minimal by comparison to later Soviet policies in Poland and other annexed territories during the Second World War. These conflicts also further question the merits of racial or cultural factors, since in all cases Russian troops were pitted against a culturally distinct enemy, but did not resort to high levels of combatant abuse. In the Sino-Soviet War of 1929, Russian forces limited themselves to relatively low levels of abuse against Chinese soldiers (Clubb 1971:263). During this war the Soviet Union sought the more modest aim of ensuring its continued stake in the Manchurian Chinese

Eastern Railway rather than taking over the entire surrounding area and beyond. Wanting to maintain good relations with the Chinese populace in the region, the Soviet strategically calculated that good conduct toward enemy combatants would reduce the threat of escalation and make a stable post-war environment more likely (Patrikeeff 2002:85-87).

Along similar lines, two wars against Japan at Changkufeng in 1938 and Nomonhan in 1939 were essentially border skirmishes that escalated into war, yet large swaths of territory were not an objective in either instance. In both cases the Soviets refrained from instigating abuses that came anywhere near to those committed against Polish prisoners not long afterward (Coox 1977:345-346; 1985:403). When territorial annexation did not appear to be a primary wartime objective, Soviet incentives to commit high levels of combatant abuse appeared to have been greatly weakened.

Far from exhibiting an instinctual propensity for cruelty, the Soviet Union demonstrated significant variation in its treatment of enemy combatants. As the preceding discussion has sought to illustrate, the reasons for differences in Soviet conduct were driven in no small part by the particular territorial aims it sought to achieve through the use of force. Although this section has gone some way to illustrating a relationship between combatant abuse and territorial objectives, I have only provided some suggestive evidence as to why territorial motives are such a strong driver for victimizing prisoners. I now turn to the specific case of the Katyn massacre to assess in a more systematic manner how Soviet motives over Polish territory guided the decision to abuse the Polish prisoner population. The Katyn case also provides an opportunity to evaluate some of the additional implications developed in the theoretical sections concerning the timing of abuse and the relative targeting of different groups. I argue that the territorial motive provides the best explanation for

not only why Polish officers were targeted in particular, but also for when Soviet authorities decide to execute them.

Russia, Poland, and the 1940 Katyn Forest Massacre

The Second World War was in many ways harder on the Polish people than almost any other nationality. Caught between Nazi Germany and the Soviet Union, Poland was occupied by the two great powers and became a key battleground on the Eastern Front. It has been estimated that Poland lost upwards of 20 percent of its prewar population by the end of the conflict (Piotrowski 1998:305). Despite the extreme hardships felt by most Poles, certain groups suffered to a much greater extent than others. Polish combatants who were captured during the course of hostilities were a particularly vulnerable group, but even in this case not all prisoners were treated equally.

This section examines in greater detail the systematic execution of around 22,000 Polish officers and related elites by Soviet forces, which has become collectively known as the Katyn Forest massacre. Officers had initially been sequestered in several “special” prison camps at Kozelsk, Starobelsk, and Ostashkov, as well as a number of smaller prisons, for more concerted interrogation. The imprisonment of the Polish officers would eventually culminate in the execution of nearly every single inmate except for a lucky few. The massacre is named after the Katyn Forest, though this site only contained mass graves for the Kozelsk prisoners. It became a common reference for the entire Soviet massacre because Katyn was the only site to be exhumed during the Second World War and was thus the most infamous mass grave of the conflict. The Katyn massacre presents a useful opportunity for understanding the ways in which the Soviet Union’s drive to occupy and annex Polish territory influenced its treatment of key sections of the Polish armed forces.

Much has already been written about the purges and mass killings of civilians and other groups endemic to the Stalinist period in Soviet Russia, but also Communist regimes in general (Valentino 2004:149-150). The Katyn massacre, however, should not be viewed as yet another instance of inherent Stalinist brutality, since there were many other cases of relatively benign Soviet treatment of prisoners during wars from this period. As the quantitative analysis from Chapter 4 demonstrated, there does not appear to be any intrinsic drive by Communist countries to engage in combatant abuse. Although they do not exhibit a similar overall degree of restraint exhibited by democracies, Communist countries were found to be no different from their other nondemocratic counterparts in the treatment of prisoners. Communist ideology may have certainly played a contributing role in the Katyn deaths, but does not appear to provide a full explanation for the course of events leading up to the executions.

Beyond the variation evident in Soviet conduct across different wars, the Katyn case also provides interesting within-case variation in the degree to which different prisoner groups were abused. The explicit targeting of the Polish officer corps by the Soviet Union also provides an interesting episode which contradicts the usual thinking about the relative treatment of different ranks of prisoners. The laws of war set up an explicit hierarchy governing the rights and privileges of prisoners of war based on rank, which has been reaffirmed in later treaties up to the present day. Unlike regular soldiers, officers were not required to do any physical labor even though they were still allowed to collect their regular higher pay.²²⁸ These legal privileges have

²²⁸ See in particular Articles 23 and 27 of the 1929 Geneva Convention on Prisoners of War, which was the relevant agreement during the Second World War. Throughout the treaty there are numerous other references to special provisions for officers vis-à-vis regular troops. Importantly, it should be noted the Soviet Union was not a party to the 1929 Convention. One of the justifications Soviet negotiators gave for rejecting the agreement was precisely because rights it accorded greater privileges to officers (Morrow 2001:978). This suggests, however, that the Soviet Union would treat officers and other ranks similarly rather than targeting the former as occurred in the case of Poland during the Second World War. Furthermore, Soviet Russia was still a party to the 1899 and 1907 Hague Conventions which

historically translated into superior treatment for officers while in captivity (Beaumont 1983:74-75).²²⁹ During the First World War, Tsarist Russia ensured that captured German and Austro-Hungarian officers lived in relative comfort, while the masses of other-ranks were often deprived of even many of the necessities to survive (Rachamimov 2002:55, 98). Regular Polish soldiers certainly did not fare very well under Soviet custody, but the explicit targeting of officers stands in contrast to traditional principles of international law as well as historical precedent more generally. The Katyn Forest massacre represents an intriguing case where it was probably better to be a lowly infantryman rather than a highly decorated officer. As will be shown in greater detail below, the targeting of the officer corps was intimately tied to the Soviet Union's designs for conquered Polish territory.

Background to the War: Soviet Territorial Motives

Poland and Russia have been far from intimate friends during much of their history. Since the late 17th century up to 1989, Poland has been dominated by its larger and more powerful eastern neighbor except for a few brief exceptions (Davies 1982a:408-411). During the 18th century Russia, alongside Prussia and Austria-Hungary, profited from three successive partitions of Polish territory. The Russian state, whether in its Tsarist or later Communist form, thus had a longstanding interest in Polish territory.

One of the exceptions to Russian dominance occurred following the First World War when Poland regained sovereign statehood. Taking advantage of internal weakness after the Bolshevik Revolution and ongoing Russian civil war, a newly

required the proper treatment of prisoners irrespective of rank and certainly disallowed the type of actions that constituted the Katyn massacre.

²²⁹ Beaumont notes this is not always the case and that some categories of officers have not been viewed as privileged elites by their captors. In the case of World War II, this includes Red Army commissars, German SS officers on the Eastern Front, and downed Allied pilots in the Pacific Front (Beaumont 1983:76). However, she provides no discussion of the Polish officers who died at Katyn.

independent Poland turned the tables and successfully fought a war against its larger Eastern neighbor from 1919 to 1920. After Polish forces drove back a Russian advance that was halted at the outskirts of the capital of Warsaw, the Russians sued for peace. A formal peace treaty, the Peace of Riga, was signed in April 1921 where Poland gained large tracts of Russian territory in what is now Western Belarus and Ukraine. The gains were later ratified in 1923 by the Allied Conference of Ambassadors, which was established after the Versailles Treaty ending the First World War (Sanford 2005:7). The further loss of territory became a great source of grievance for Soviet Russia and contributed to the famous derisive yet faulty description of Poland by Vyacheslav Molotov, who would later become Stalin's foreign minister, as "the monstrous bastard of the Peace of Versailles."²³⁰

During the interwar period, the Soviet Union harbored strong desires to re-absorb these lost territories now found within the Eastern regions of a much larger Poland. The early stages of the Second World War provided the Soviet Union with a prime opportunity to retake territory from Poland, while at the same time ensuring a more permanent solution to their Polish problem. In concert with Nazi Germany, the foreign ministers of the two countries, Molotov and Joachim von Ribbentrop, signed a Non-Aggression Pact on August 23, 1939. Article 2 of the agreement stipulated that should either country enter into war against a third party, the other country would not come to the aid of the latter country.²³¹ It has largely been accepted that this agreement sealed the fate for a German attack against Poland. In the military

²³⁰ Molotov's characterization is inaccurate because Poland was not an expressed creation of the victorious powers of the First World War. In contrast, the Peace of Versailles simply confirmed the existence of a Polish state which had already developed de facto out of the vacuum of the defeated powers of Central and Eastern Europe (Davies 1982b:393-394).

²³¹ Article 2 read as follows: "Should one of the High Contracting Parties become the object of belligerent action by a third Power, the other High Contracting Party shall in no manner lend its support to this third Power." Treaty of Non-Aggression between Germany and the Soviet Union, 23 August 1939, Moscow (Cienciala et al. 2007:39-40).

historian John Keegan's straightforward prose, "Poland was now doomed" (Keegan 1990:43).

The publically disseminated Nonaggression Pact contained no provisions regarding German or Soviet interests in Poland. This was saved for a secret additional protocol, which divided Eastern Europe into separate German and Soviet spheres of influence. Article 2 of the protocol explicitly outlined each country's share of Polish territory, though it left to a later date the final decision of whether to maintain a rump Polish state.²³² The Soviet Union thus entered into collusion with Nazi Germany to gain territorial spoils at the expense of a defeated Poland.

The war officially began with Germany's invasion of Poland on September 1, 1939 despite warnings from the Western Powers. The attack in fact sparked the beginning of the entire Second World War. Britain and France quickly responded by declaring war on Germany though they provided few material resources to the Polish defenders. Stalin waited until Polish forces were sufficiently ground down by the German advance before invading Poland's eastern border just over two weeks later on September 17.

In one of the many peculiarities that would occur throughout the wider war, neither Poland nor the Soviet Union formally declared war on one another. The Soviets used a humanitarian pretext by arguing that it was merely intervening to protect Ukrainian and Belarusian minorities from the dangers of the collapsing Polish state (Zaslavsky 2008:10-11). For its part, the Polish government was already under siege from German forces and saw the Soviet occupation as a foregone conclusion. Wanting to avoid any further bloodshed, Polish military and political leaders did not

²³² Secret Supplementary Protocol to the Treaty of Non-Aggression between Germany and the Soviet Union, 23 August 23 1939, Moscow (Cienciala et al. 2007:41). The Secret Protocol also contained Soviet claims over the Baltic states and Bessarabia, which will be discussed in greater detail below when considering Soviet conduct in other cases where it sought territorial re-absorption.

develop any concerted plans for defending the eastern regions of their country against the Soviet advance (Sanford 2005:21). Pockets of resistance by Polish forces continued on both fronts, but the war was essentially over by September 27. The Soviet Union suffered just 737 battle deaths, while Polish forces in the East were dealt a higher number of around 3,000 lives lost.

The day after the war ended Germany and the Soviet Union reaffirmed their entente and consolidated their territorial gains with the September 28 Treaty on Friendship. The agreement included a few revisions of the initial division of land from the August 23 Secret Protocol, but the general partition of Poland into a German-controlled western region and Soviet-controlled eastern region remained essentially unaltered.²³³ With the conclusion of the treaty the Soviets gained 52 percent of interwar Poland, which was made up around 126,000 square miles of land, and 38 percent of its population, which totaled more than 13 million persons (Piotrowski 1998:9). Despite Soviet claims to the contrary that the conquered lands were inhabited by few if any Poles, demographic estimates based on Polish records suggest almost 40 percent of residents in these areas were ethnic Poles (Siemaszko 1991:230).

In a similar manner to the August agreement Molotov and Ribbentrop negotiated an additional secret protocol to the Friendship Treaty, which stated in part:

Neither party will allow on its territory any Polish agitation that affects the territory of the other country. *Both shall liquidate such agitation on their territories in embryo* and shall inform each other about expedient measures to accomplish this (emphasis added).²³⁴

The scope and extent of active German-Soviet collaboration in the suppression of Polish resistance remains an extremely contested issue (Sanford 2005:29-31).

²³³ German-Soviet Treaty on Friendship and the Border between the USSR and Germany, 28 September 1939, Moscow (Cienciala et al. 2007:59-60).

²³⁴ Secret Supplementary Protocol to the German-Soviet Treaty on Friendship and the Border between the USSR and Germany [Establishing Cooperation against Polish Resistance], 28 September 1939, Moscow. Excerpt quoted in (Cienciala et al. 2007:61-62).

Nevertheless, the protocol indicates both countries were acutely aware of the threat posed to their rule by Polish resistance and had already devised a strategy for dealing with this menace. How then did the territorial motives of the Soviet Union influence the decision over how to treat captured Polish combatants? The Soviets would eventually identify Polish prisoners of war, and in particular officers, as dangerous groups deserving of a brutal, yet extremely efficient, solution.

The General Treatment of Polish Prisoners

From their first advances across the border into Polish territory, Soviet forces were far from humane in the treatment of enemy combatants. The high levels of combatant abuse that resulted are largely consistent with expectations of the Soviet Union's territorial motives in Eastern Poland. Polish armed forces were identified as a general threat and abuses like torture or execution of prisoners, whether or not they had initially put up any resistance, became a common phenomenon during the combat phase of the conflict (Gross 1991:45-46; Szawlowski 1991:30). During the few brief weeks of the war, it is estimated that between 1,000 and 2,500 Polish prisoners were summarily executed on the battlefield (Sanford 2005:23). In one of the more gruesome cases, General Olszyna-Wilczynski, Polish commander of the Grodno military district, ordered his men to stand down to avoid needless bloodshed. He then rode forward to extend a courtesy to what he thought would be a friendly officer counterpart. Instead, he was immediately pulled from his car, thrown against a barn door, and shot on the spot (Zawodny 1962:131; Piesakowski 1990:38-39).

Many prisoners were able to avoid immediate execution and fell into some form of Soviet custody. While the precise number will likely never be known, it is generally accepted that around 250,000 Polish soldiers became prisoners of war of the Soviet Union (Piesakowski 1990:39; Vance 2006:222). Since the bulk of the Polish forces had been deployed to meet the earlier German attack, it is not surprising a far

greater number of close to 700,000 others became prisoners under German control (Rossino 2003:179). Not all Polish combatants fell into the hands of German or Soviet invaders and many were able to escape to various neighboring countries. Around 40,000 soldiers were able to cross over to Hungary, while another 30,000 did the same in Romania. 15,000 others escaped to Latvia and Lithuania, though they were later captured when the Soviet Union eventually annexed the Baltic states in June 1940. Finally, 47,000 Polish soldiers, which included 9,200 officers, took various routes in secret to end up Allied-controlled territories like France and the Middle East (Sanford 2005:22). Many of these officers and soldiers formed the core of Polish units which later fought under the command of the Western Allies throughout the rest of the war. The contributions of these escapees to the Western Powers would indirectly help the Soviet Union later on in the conflict once it had allied with the United States and Britain. However, at the time in the fall of 1939 the Soviet leadership was more concerned with the capability of Polish troops to undermine its control over Eastern Poland.

For the quarter-million soldiers who were unable to escape the fighting was over, but their deprivations had just begun. Some were fortunate enough to be sent home in the early stages of captivity, though this was primarily reserved for soldiers of Ukrainian or Belorussian origin (Zaslavsky 2008:13). The decision to do so was taken at the highest level of the Soviet government in a Politburo meeting on October 2, 1939.²³⁵ These groups were largely viewed as less threatening to Soviet control over newly gained territories compared to the much more nationalistic ethnic Poles. The vast majority of prisoners of Polish ethnicity were thus far less lucky. As was the case throughout the war on the Eastern Front, the Soviet Union refused to allow the ICRC

²³⁵ The text of the minutes from the meeting can be found in (Cienciala et al. 2007:62-63).

access to Polish soldiers or holding sites, which meant prisoners could not benefit in any way under the organization's auspices (ICRC 1948:407-408).

Not long after capture, most prisoners were led on forced marches over vast distances to reach large temporary stations, such as the Szepietowka transit camp, only to continue another arduous journey to their final destination (Gross 1991:46). With the war ending in late September, the weather became increasingly severe. The further lack of adequate food and shelter meant countless numbers died before even arriving at their intended prison camp.

Although conditions often improved once prisoners ended up in a more permanent location, the level of treatment for most Polish prisoners was far below generally accepted standards. After formally incorporating all conquered parts of Poland into the Soviet Union, the Communist government passed a decree on November 29, 1939 that all soldiers and civilians in these areas were now Soviet citizens (Malcher 1993:7).²³⁶ This was then used as a pretext to forcibly conscript over 210,000 persons into the Red Army, many of whom were former Polish combatants but also a number of civilians (Malcher 1993:7-9).²³⁷

A large number of those not facing induction into the military were conscripted into vast labor camps located in remote regions of the Soviet interior. Together with Polish civilians, it is estimated that between one and one-and-a-half million Poles were deported to various camps in the Soviet Union to face grueling labor in often harsh conditions (Cienciala et al. 2007:138-139). The Soviet Union did not develop anything similar to the German concentration camps, where the expressed purpose was the

²³⁶ Decree of the Presidium of the Supreme Council of the USSR concerning the acquisition of citizenship of the USSR by the inhabitants of the Western districts of the Ukraine and Byelorussia (General Sikorski Historical Institute 1961:92).

²³⁷ Conscripts largely served in construction battalions rather than being trusted with weapons. Nevertheless, the fact of conscription, alongside the direct military nature of their work, was in complete contradiction to prevailing principles of international law.

rapid and efficient killing of large numbers of persons. Nevertheless, the grueling work, harsh conditions, and paucity of appropriate food and shelter, made many of the labor camps de facto death sentences for Polish prisoners. The death rates in these camps varied greatly with some of the most extreme cases being those in the Far North Eastern Kolyma and Komi regions in the Arctic, where around 75 percent of Polish prisoners died between 1940-1941 (Conquest 1978:218-219). In general, it is estimated that the death rate for Polish prisoners across the various labor camps was between 25 and 60 percent per annum during the 1940-1941 period (Sanford 2005:55).

The use of mass deportations and labor camps demonstrates that large swaths of Polish society were victimized as part of the broader Soviet policy of territorial annexation. The upper estimates suggest that over 10 percent of the Polish citizenry was deported or punished in some way by their Soviet occupiers. Territorial motives clearly played a major role in the overall use of violence by Soviet authorities in Poland. However, the general level of brutality hides important variation in the extent to which different groups were abused. As horrific as the 10 percent death rate for the entire population may seem, it still pales in comparison to the execution of over 95 percent for the Polish officers in the Katyn massacre.²³⁸ The Polish civilian population certainly represented a potential threat to continued Soviet rule, since the possibility always existed that certain groups could coalesce and rebel against Soviet authority. The key question was rather the degree of threat posed by different segments of Polish society. Even the deportation of upwards of 1.5 million citizens was an enormous endeavor which expended huge amounts of resources for the Soviet Union. Ridding

²³⁸ The estimate for the civilian population is based on the widely cited upper figure of 1.5 million persons deported to the Soviet Union out of a total prewar population in Soviet-held Poland of around 13.4 million (Sanford 2005:23; Cienciala et al. 2007:138-139). The estimate for death rate of the officer corps is based on (Sanford 2005:94).

annexed Eastern Poland of its entire indigenous population was consequently a nearly impossible task.

The decision for the leadership essentially came down to how best to allocate the scarce resources of the Soviet coercion machinery. Polish officers, who possessed a high level of both military and leadership skills, posed the most palpable threat. The Katyn massacre was thus a shortcut toward suppressing the overall likelihood of a widespread rebellion in Soviet-held Poland. As one scholar remarked, “Short of destroying the entire population, a well-nigh impossible task, the next best method of reducing Poland for good was to remove all those in a position of leadership, military or intellectual” (FitzGibbon 1971:179).

Territorial Annexation Taken to the Extreme: The Fate of Polish Officers in the “Special” Camps at Katyn

The precise motives guiding the decision of Stalin and his inner circle to commit the Katyn massacre may unfortunately never be resolved with absolute certainty. No documents survive detailing the inner thinking of Stalin, or the private discussions among the top Soviet leadership which culminated in the final order to commit the Katyn massacre (Cienciala et al. 2007:141). Nevertheless, the available evidence strongly suggests the massacre was intimately connected to the territorial ambitions of the Soviet Union in Eastern Poland. Although Soviet authorities victimized nearly every segment of Polish society, the most brutal tactics were reserved for those groups viewed as most threatening to their hold on Polish territory. Officers were to find themselves unwittingly at the top of this list. As one prominent historian of the war concludes, “The death of Poland’s military cadres was part of a calculated strategy to rid the occupied areas of any elements capable of raising the flag of national resurgence against the Soviet invader” (Overy 1997:77).

Even though direct proof of Stalin's motives may be lacking, several pieces of evidence point to the crucial role played by territorial motives. Unlike in other wars, the Soviet Union entrusted the running of the prisoner program to the NKVD, or People's Commissariat for Internal Affairs, rather than the armed forces.²³⁹ This decision went against usual Soviet custom and was in further contradiction to prevailing principles of international humanitarian law.²⁴⁰ As the Soviet secret police, the NKVD represented the main arm of domestic political repression. It already possessed a good deal of experience in extrajudicial killings and administered the notorious gulag labor camps for political prisoners and other individuals unfortunate enough to meet the wrath of the Communist government (Applebaum 2003:94). It is perhaps not surprising that the deportation of Polish soldiers and civilians to labor camps became a common form of punishment under NKVD rule. Delegating authority to the NKVD suggests the treatment of Polish prisoners was viewed more as a problem of internal security to the stability of a now enlarged Soviet Union rather than simply a matter of interstate warfare. Reliance on the NKVD in many ways flows from the objectives of territorial re-absorption, since the organization did not tend to be used for prisoner of war issues in most other Soviet wars

Lavrenty Beria, head of the NKVD and later a key player in the Katyn massacre, quickly formed a specific department within the secret police called the Administration for Prisoner-of-War Affairs to deal with the Polish camps.²⁴¹ With the

²³⁹ Politburo Decision on Placing POW Reception Points under NKVD Protection (Excerpt) 18 September 1939, Moscow (Cienciala et al. 2007:48-49).

²⁴⁰ Prisoners of war are supposed to be under the control of the captor's government and subject to the regulations of the captor's armed forces. See, for example, Articles 4 and 8 of the 1899 Hague Convention, and Articles 2, 43, 45 of the 1929 Geneva Convention.

²⁴¹ See Secret Order of the USSR People's Commissar of Internal Affairs, 19 September 1939, No. 0309, Moscow (Cienciala et al. 2007:49). The acronym UPV is commonly used to refer to the department in many scholarly writings and refers to the Russian name, *Upravlenie po Delam Voennoplennykh*.

NKVD structure in place, the objectives of these facilities went beyond the simple custody and care of prisoners, which was the traditional purpose of most prisoner of war camps. NKVD captors also formulated an intense program of interrogation and indoctrination to identify individuals that might be amenable to the Communist cause on the one hand, and weed out and eliminate threatening elements on the other hand. Polish officers became a key target of this program across several special camps that were set up expressly for the purpose of interrogation and eventual elimination.

The chaos resulting from the war as hundreds of thousands of Polish soldiers surrendered in a haphazard fashion meant that most of the early camps contained prisoners across a wide range of ranks. From the beginning, however, Polish officers were treated differently from lower-ranked prisoners. The NKVD gave explicit instructions early on that officers should be identified and distinguished from the general prisoner population (Gross 1991:46). Red Army commanders were forbidden from releasing any officer prisoners under their care and were further instructed to specifically seek out Polish officers attempting to evade Soviet capture (Sanford 2005:44; Cienciala et al. 2007:28). The special status accorded to Polish officers was formalized in a directive on November 19, 1939 that over 20,000 officers and other relevant officials would be separated from the main transit centers and transported to three specifically designed prison camps (Malcher 1993:24).

These camps were Kozelsk, which was located 150 miles southeast from the town of Smolensk; Starobelsk, which was 160 miles southeast from Kharkov; and Ostashkov, which was on an island 9 miles northwest from the town of Kalinin (now Tver) (Sanford 2005:48). Kozelsk and Starobelsk were designated as camps primarily for officers, while Ostashkov became in many ways a residual for remaining categories of prisoners, which included officers from the police, border and prison guards, as well as a number of civil and judicial officials (Cienciala et al. 2007:29-30).

The emphasis on police and related officials at the Ostashkov camp may have illustrated a certain amount of Soviet projection and overestimation of the role of these individuals in the running of the former Polish state (Sanford 2005:54). A number of additional officers and officials were also held in a variety of smaller NKVD prisons in western portions of Belarus and Ukraine. The decision by the Soviets to isolate officers was thus made early on and reflects the special attention devoted to this particular group of enemy combatants.

Unlike the sparse conditions that prevailed in the 26 regular prisoner camps and hundreds of other labor camps, the special camps for officers were relatively more comfortable though far from sumptuous (Vance 2006:221). Labor was still expected, but in general was less arduous and often limited to building and maintaining camp facilities. The main purpose of segregating the officers from the rest of the prisoner population was to conduct a concerted screening process to identify officers who might be sympathetic to the Soviet Union (Malcher 1993:24). Irrespective of the initial feelings of the officers toward the Soviet Union, all prisoners were also subject to an intensive indoctrination campaign to convince them to join the Communist cause (Roberts 2006:170).

Reflecting the paranoia that had already enveloped the Soviet Union during earlier domestic purges from the 1930s, camp officials were extremely sensitive to any hint of opposition to Soviet authority by the prisoners. For instance, in late November 1939 a special NKVD team was sent to Starobelsk to deal with a secret “anti-Soviet organization,” which merely turned out to be a request by a group of prisoners to contact the local American Consulate regarding the possibility of joining the Polish Army-in-Exile that had by then formed in France (Malcher 1993:25). The Soviet Union was ultimately justified in expressing concern over the beliefs of the prisoner population in the special camps. Compared to most other countries which were

annexed or became occupied during the Second World War, nothing that approached large-scale collaboration developed in Poland (Stachura 2004:131). Polish officers in general turned out to be fiercely nationalistic and derided what they considered to be the crude Soviet attempts at indoctrination. A later survey in March 1940 of Starobelsk officers asking where they would prefer to be sent should they be released. Answers to the survey revealed around half wished to return to Poland even though it was under German and Russian military control, while most of the rest wanted to be transported to a neutral country. Only 64 of the approximately 5,000 respondents indicated a desire to remain in the Soviet Union (Piesakowski 1990:142).

The refusal by the vast majority of Polish officers to toe the Communist line and the outright rejection of the Soviet Union became a sore point for NKVD officials and the Soviet leadership more generally. The officers at the three special camps and other prisons were aware the interrogations were related to some form of selection criteria, though none knew these interviews would ultimately be a matter of life and death. Interrogations revealed that the vast majority of Polish officers had little sympathy for the Communist cause and would likely oppose Soviet rule if given the chance. By their words and deeds, the Polish officers demonstrated to Soviet authorities that they represented a long-term threat to continued Soviet control over Eastern Poland. While other Polish civilians and prisoners certainly suffered under Soviet rule, the threat posed by Polish officers meant that they would almost be completely eradicated.

The internal discussions and exact steps leading up to the final order to liquidate the special camps have either been destroyed or are still hidden in Soviet archives (Cienciala et al. 2007:141). On December 3, 1939 the NKVD made the decision to formally arrest all Polish officers in the three special camps as suspected counter-revolutionaries, which put them under the Soviet penal system rather than the

convention laws of war (Sanford 2005:64). Later on March 5, 1940 based on the recommendations of the NKVD chief Beria, the Politburo issued the ultimate order to empty the special camps and dispose of almost every single Polish prisoner.²⁴² The process involved the highest level of secrecy at all stages. Only Stalin, Beria, and a small circle of other officials were privy to the discussions proposing the execution order in the first place. Even after the order had been authorized, just a dozen officials took part in the planning, while it is estimated that those implementing the actual killing of more than 20,000 Polish prisoners involved only around 200 individuals (Sanford 2005:76).

There have been various estimates of the exact number of prisoners killed across all of the sites. Part of the problem is that even many NKVD records tabulating the total number of victims contain numerous inaccuracies and contradictions. Table 29 below provides the best figures for the number of prisoners who were killed compared to those who were spared for each of the three special prison camps.²⁴³ Across these camps alone almost 15,000 officers and other high officials were killed. Because of the paucity of records, the fate for those housed in the Ukrainian and Belorussian prisons of the NKVD is less certain. It is now broadly believed that 7,305 out of 18,632 individuals in these prisons were executed in a similar manner to prisoners from the three special camps (Sanford 2005:109). The outcome was unfortunately not much better for the remaining prisoners, since it appears that most were sent to labor camps or met a similarly nasty ending.

²⁴² Indicative of how the business of the Politburo could move from the exceptional to the mundane, minutes from the meeting that day indicate that the next item taken up on the agenda concerned preparations for a new sarcophagus at the Kremlin mausoleum for Lenin's body (Sanford 2005:81).

²⁴³ Figures are based on (Sanford 2005:94, 115).

Table 29: Death and survival statistics at the three special camps for Polish prisoners, April-May 1940

POW Camp	Mass Graves	Number Executed	Number Spared	Percent Executed
Kozelsk	Katyn	4,410	205	95.4
Starobelsk	Kharkov	3,739	78	97.9
Ostashkov	Kalinin	6,314	112	98.2
Total		14,463	395	97.3

Taken together, the most widely accepted figures suggest at least 21,768 Polish prisoners were systematically executed by the NKVD under Stalin's authority from April through May, 1940. Those killed included 10 generals, 300 colonels and lieutenant-colonels, 500 majors, 2,500 captains, and 5,000 lieutenants and second-lieutenants (Piesakowski 1990:157). The Katyn Forest massacre destroyed 55 percent of the Polish Army's pre-war Officer corps along with a large portion of the domestic security apparatus of the state (Malcher 1993:23). Furthermore, around half of the officers were from the reserve forces and drawn from some of the most elite sections of Polish society. As a result, Poland lost in addition 300 doctors, 200 lawyers, 300 engineers, 21 university professors, as well as a host of other professionals (Vance 2006:222). Along with the destruction of Poland's military leadership, the annexed country also lost the "flower of the Polish intelligentsia," which individually and as a group would have likely posed a stern challenge to the Soviet Union's continued hold on Polish territory (Zawodny 1962:22; Sanford 2005:52).

What is perhaps most astonishing is how few prisoners survived. The executions at the three main special camps resulted in the deaths of 97 percent of all Polish officers under Soviet custody at the time. Compared to the violence wrought on the Polish civilian and general prisoner population, the Katyn massacre took combatant abuse to a completely new level of ruthlessness. Even Japan and Germany, not exactly known to be the most humane captors from the Second World War, did not

achieve similar levels of carnage when looking at the total number of prisoners falling under their control.

Why was the final order taken to annihilate almost the entire Polish officer corps? The text of the March 5, 1940 memorandum from Beria requesting Stalin to authorize the executions provides several indications of the territorial motives underlying the decision making of the Soviet leadership. In the opening paragraphs, Beria justifies the preferred outcome as follows:

Prisoners-of-war officers and police in the camps are attempting to continue their c-r [counter-revolutionary] work and are conducting anti-Soviet agitation. Each one of them is just waiting to be released in order to be able to enter actively into the battle against Soviet power.²⁴⁴

He goes on to note that NKVD officials had also uncovered a number of insurgent organizations in the western portions of Ukraine and Belorussia, which were two of the main areas of Poland annexed by the Soviet Union the year prior. In all cases Beria charged that these organizations were being led by former Polish officers or members of the police.

After describing the specific number and distribution of prisoners across the special camps, he concludes by recommending the prisoners should be dealt with “using the special procedure, apply to them the supreme punishment, [execution by] shooting” (Cienciala et al. 2007:120). The document also definitively establishes the highest echelons of the Soviet leadership both possessed knowledge of the massacre that was soon to unfold and played a direct hand in its authorization. Marked on the

²⁴⁴ Quoted from No.794/B Top Secret, Beria Memorandum to Joseph Stalin Proposing the Execution of the Polish Officers, Gendarmes, Police, Military Settlers, and Others in the Three Special POW Camps, Along with Those Held in the Prisons of the Western Regions of Ukraine and Belorussia, Accepted by the Politburo, 5 March 1940, Moscow (Cienciala et al. 2007:118-120).

first page of the memorandum were the signatures of Joseph Stalin, Foreign Minister Vyacheslav Molotov, as well as several other members of the Politburo.

The memorandum thus reflects a deliberate policy of the Soviet leadership to eliminate all sources of current and future resistance within the former Polish territory. Alongside the mass deportations and abuses of other soldiers and civilians, “The main aim of Soviet policy during 1939-1941 was to destroy Polish political, social and cultural influence entirely, and to disperse the Polish population throughout the USSR, where it could be controlled effectively” (Sanford 2005:24).

Beria’s discussion of counter-revolutionary threats, whether real or perceived, perhaps could have been a pretext for other motives to kill Polish officers, several of which will be examined in greater detail below. Taking into account later developments in Poland, however, the Soviet decision was a brutal yet in many ways completely reasonable strategy given their desire to hold on to the annexed territories. After the German attack on Soviet forces in the summer of 1941, the entire area of interwar Poland turned over to the Third Reich for much of the rest of the war. By 1942, domestic resistance had consolidated into the formation of the Polish Home Army, which became the primary indigenous opponent to German rule. At its height the Home Army contained around 400,000 members, but its strength is widely believed to have been drawn from a core of former Polish military officers.²⁴⁵ These officers coordinated all aspects of the Home Army’s fighting force and turned it into one of the most formidable resistance movements of the entire war (Stachura 2004:132-135). Although the Soviet Union never faced the full force of Polish

²⁴⁵ For instance, one of the founders and key commanders of the Home Army, was Stefan Grot-Rowecki, a former Polish Army officer (Komorowski 1951:140). For a general discussion of the composition of the Home Army, see (Walker 2008:58-59).

resistance, the Soviet leadership appears to have been justified in expressing concern over the threat posed by the officers in their custody.

Examining other elements of the killings yields additional insight into the territorial motives behind Soviet decision making. First, the timing of the massacre is interesting given that the Soviet leadership waited more than four months after it had captured the vast majority of the Polish officers before commencing the executions. Part of the delay appears to have been balancing the future threat posed by the officers versus the potential gains from using these prisoners as a bargaining chip in the wider European war. Beginning in late November 1939, the Soviet Union found itself in the small but hard-fought Winter War against neighboring Finland. There has been some thinking that the special camps were liquidated to make way for large numbers of Finnish prisoners (Cienciala et al. 2007:139). In this light, the Katyn massacre was merely a pragmatic and ultimately ad hoc solution to a housing shortage for the wider Soviet prisoner population rather than a systematic plan to consolidate recently won territorial prizes.

This contention does not stand up well when looking at the overall course of the Finnish war. Contrary to Soviet expectations, the Finns put forward a resolute defense which translated into the Red Army only capturing 825 prisoners throughout the entire war (Hannikainen et al. 1992:85). This number does not represent even one-quarter of the total prisoner population at the smallest of the three special camps, Starobelsk. The Katyn massacre also took place several weeks after the war with Finland formally ended on March 12, 1940. Space constraints would no longer seem to be an issue, since it was unlikely that more Finnish prisoners would be falling into Soviet hands.

The Polish prisoners did appear to figure prominently in Russian decision making during the Winter War, though not for the reasons initially thought. After the

war opened, Russia was accused of the international crime of aggression and ejected from the League of Nations in December 1939. In early February of the following year, Britain and France put forward a proposal to send an intervention force to help their democratic Finnish counterpart (Gilbert 1989:42).²⁴⁶ There was some discussion about whether or not the Polish Government-in-Exile in London would contribute troops to the mission to thwart the Soviet Union, since it was one of the occupiers of the Polish homeland. Several historians have hypothesized that Stalin kept the Polish officers in reserve as a source of leverage, should any London Polish military contribution to the expeditionary force ever materialize (Cienciala et al. 2007:147).

In the end the Western powers were unable to provide any significant aid to the Finns because of a variety of obstacles. Although the Red Army was suffering far greater casualties, Soviet material superiority ground down the Finnish forces and by late February Finland had opened armistice negotiations with their adversary. Peace with Finland appeared more than likely by the start of March 1940. The possibility of Western intervention diminished greatly and with it the usefulness of the Polish special prisoners. Far from the threat of war, it appears more likely that the expected termination of the conflict with Finland helped to seal the fate of the Polish prisoners at Kozelsk, Starobelsk, Ostashkov, and the other NKVD prisons. Alongside the Soviet belief during the same period that a war with Germany was unlikely, and consequently the need for a Polish ally was small, the contrasting desire to dispose of the Polish officers could be given full voice (Cienciala et al. 2007:147).

When turning to the details of the executions themselves, several aspects point to the particular importance Soviet leaders placed on destroying any future Polish

²⁴⁶ Though it should be noted that Britain and France also had ulterior motives in sending an expedition to Finland, in particular to use this operation as a pretext to occupy Norway and thereby withhold valuable ore deposits from Germany (Calvocoressi et al. 1989:118).

resistance. In the sequence in which prisoners were selected, the first batches to be sent off to their deaths invariably included the highest-ranking officers, in particular a select number of generals, as well as those individuals the NKVD identified as possessing a particularly strong aptitude for leadership (Zawodny 1962:105-106). With the main leaders gone this made the later executions easier to implement, but also ensured the most threatening elements were terminated from the very beginning. Although the survival rate was miniscule across all categories within the camps, those groups with particularly high-levels of technical expertise were eliminated to the last person. For instance, Soviet authorities made certain to round up all officers from the Polish Institute of Gas Warfare and every single staff member was executed.²⁴⁷

In order to obstruct later possible sources of grievances, the Katyn massacre was carefully coordinated with targeted deportations of other likely hostile elements. In conjunction with the killings of prisoners from the special camps, the NKVD also purposefully planned the mass deportation of the prisoners' families from their homes in Soviet-controlled areas of Poland.²⁴⁸ Three days before the March 5, 1940 order which sealed the fate of the Polish prisoners, the Politburo issued a directive to the NKVD to round up the 25,000 families of the inmates from the special camps.²⁴⁹ The families were then shipped to the northern region of Kazakhstan. On April 13, 1940, in the midst of the ongoing killings of the Polish prisoners, 66,000 family members were swept up and deported to collective farms and other facilities to perform hard labor in

²⁴⁷ Other groups which were targeted in a particularly systematic manner included graduates from the Department of Armament of Warsaw Polytechnic and staff from the Policy Technical Institute for Armament (Zawodny 1962:132).

²⁴⁸ It has been argued that one of the reasons the Soviet Union agreed to allow correspondence between prisoners and their families was not for humanitarian reasons and to abide by the laws of war, but rather to collect further intelligence and in particular the addresses of family members (Sanford 2005:57).

²⁴⁹ Protocol no.13, 2 March 1940, Top Secret Special folder 114. On Guarding the State Borders in the Western Oblasts of the UkSSR and BSSR, Approve the following proposals by Comrades Beria and Khrushchev (Cienciala et al. 2007:114-115).

the Kazakh interior. Because the families were mainly comprised of women and children, the grueling work and harsh conditions killed a large though ultimately unknown number (Cienciala et al. 2007:121, 137-138). The aim was not only to punish those families of Polish officers, but also to remove any later sources of possible resentment against the Soviet Union, which could coalesce into opposition to Communist rule over the conquered territory (Sanford 2005:27). The decision to liquidate the special camps, therefore, ultimately had much broader ramifications and resulted in the deaths of a great deal more innocent people.

Although much of the discussion up until this point has centered on the officer contingents of the special camps, at Ostashkov and many of the smaller prisons in Western Ukraine and Belarus the prisoners were high-ranking policemen, border guards, and other officials. Disposing of all these groups meant the Soviet Union was able to destroy not only the military leadership, but in addition almost the entire security and coercive apparatus of the former Polish government (Cienciala et al. 2007:142). This had the effect of undermining the capability of any aspiring Polish state to reconstitute itself, but also eliminated almost every individual in Soviet custody with the ability to meaningfully organize and lead a resistance force. In sum, the documentary evidence, along with the patterns and timing of the killings themselves, suggest the Soviet Union was primarily driven to this highly brutal yet targeted strategy of combatant abuse because of its long-term objective to assert complete control over recently conquered Polish territory.

Alongside the mass of prisoners killed in the special camps, a small number were not chosen to be executed. Why were a select few spared? The vast majority who were executed were deemed to be enemies of the Soviet Union in some form or another. The exact criteria for those lucky enough to be saved are not known with certainty, though it is generally assumed they fell into one of three categories:

professed Communists; those thought to be more susceptible to further indoctrination; and those with some aspect of their background that aroused sympathy from their NKVD interrogators.²⁵⁰ Once the executions had concluded by the middle of May 1940, the remaining officers from the three camps were sent to the Pavlishtchev-Bor facility before ending up in the Gryazovets prisoner of war camp. Ironically, many were initially disappointed, since they assumed their compatriots had already returned home while they were being held back for some unknown reason. They would later find out that they were saved to become the core of a pro-Communist Polish Army that would be under the command of the Soviet Union. In the end, however, the indoctrination program was an overall failure, since even amongst those specially selected for further education only thirteen ended up being accepted by Soviet authorities as avowed communists (Zawodny 1962:148).

Despite the few who managed to avoid execution, the objective of Stalin regarding the prisoners was unmistakably clear – to destroy the Polish officer corps and all related elements under Soviet control. Although having immediate consequences for the Polish officers, the Katyn massacres are better seen as part of a long-term Soviet plan to destroy any meaningful indigenous Polish influence within the newly absorbed territories (Sanford 2005:83). Looking even more broadly, the massacres had an additional benefit of ensuring that any Polish rump state that might have arisen out of the German-controlled area would be as weak as possible (Weinberg 1994:107). In one way or another, Soviet territorial ambitions in Poland

²⁵⁰ As an example of the last category, even one general, Jerzy Wolkowicki, managed to survive the Katyn massacre. Wolkowicki surmises that the NKVD favored him because of his experience as an officer in the Tsarist Russian Navy during the 1904-1905 Russo-Japanese War when he was the only officer who opposed surrendering his ship during the Battle of Tsushima. He believes this single event is what made the difference in saving him, while the other generals were executed (Zawodny 1962:143-145).

had dire implications for the general Polish prisoner population, but an especially brutal end for Polish officers.

Alternative Explanations for the Massacre

Several alternative explanations have been put forward to explain the Katyn massacre. However, the general weight of the evidence indicates that territorial motives account most convincingly for the particular patterns of combatant abuse in this episode. First, looking at other factors that have been proposed to explain patterns of combatant abuse in general, cultural differences certainly appear to figure prominently in the Polish case. Russia, whether in its Tsarist or Communist incarnations, had developed a longstanding rivalry with its largely Catholic Polish neighbor. The cultural clashes between the two countries could presumably explain the desire of Soviet Russia to rid itself of its culturally dissimilar foe once and for all when given the chance. The cultural argument is consistent with the overall high level of abuse the Soviets unleashed on both Polish combatants and civilians at large. Cultural factors are less convincing when trying to account for variations in the degree to which different groups of essentially culturally similar Poles were targeted. If the motive was to destroy members of an opposing culture, why were officers targeted to a much greater extent than regular soldiers or civilians?

The cultural argument also does not account very well for why a later group of Polish officers first interned in the Baltic states did not end up being executed. As noted earlier, several thousand Polish soldiers had managed to escape the Soviet grasp by fleeing to Lithuania and Latvia. Polish prisoners in both countries were later arrested after the Soviet Union annexed the Baltic states in June 1940. By the time the Polish officers had been interned in camps inside the Soviet Union, the broader strategic situation in Europe had drastically changed.

Over the course of May and June of that year, Germany achieved surprisingly rapid victories over many of the countries in Western Europe, including a crushing defeat of France in six weeks. The hopes of the Soviet leadership that the fascist and capitalist powers would exhaust each other in a war of attrition appeared to be dashed (Mearsheimer 2001:196-197). Although Stalin was ultimately surprised by the timing of the eventual German attack, the successes enjoyed by the Third Reich in the summer of 1940 greatly heightened the menace posed by the Soviet Union's accomplice in the dismemberment of Poland. With no ready counterweight in the West, Germany potentially threatened the very survival of the Soviet Union, much less the Communist regime's ability to hold on to the annexed territories in Eastern Poland.

One of the ironies of Soviet ambitions in Poland was that from a broader strategic point of view the newly gained Polish territories in many ways involved more burdens than benefits. The previous Soviet borders possessed a greater extent of natural barriers, which had been bolstered during the interwar period by a series of more fixed defenses. After the annexation logistics and transportation also became more problematic, since Soviet forces now had to deal with two different railway gauges across the Russian and Polish areas. Perhaps the biggest problem was that the disappearance of Poland removed a useful buffer zone against German forces to the West. The Soviets gained Polish territory, but at the expense of placing themselves immediately opposite the Wehrmacht and vulnerable to the surprise attack that would later come. It was far from an understatement when one Red Army officer expressed his skepticism over the merits of Polish annexation and concluded that the operation "was not such a good move from the military point of view" (Erickson 1991:22).

Widespread German victories in Western Europe in the late spring of 1940 drastically changed the strategic situation of the Soviet Union and correspondingly its treatment of Polish prisoners. Just a few months earlier the Katyn prisoners were

viewed as entirely expendable, but as the German threat grew the Soviet Union preferred to hold on to those Polish officers taken from the Baltic countries should they be needed to repel a Wehrmacht offensive (Cienciala et al. 2007:147-148). By November 1940, more than six months before the eventual German invasion, Beria was discussing with Stalin the possibility of organizing the remaining Polish officers and soldiers into military units. Although he still preferred to select particular officers who demonstrated pro-Communist attitudes, he concluded that “As a result of the work carried out, it has been established that the great majority of POWs can be undoubtedly utilized for organizing a Polish military unit.”²⁵¹ Considering NKVD records from the time listed 18,297 Polish prisoners, which included close to 1,000 officers of various ranks, this stands in enormous contrast to the handful that were deemed trustful enough to be spared from the Katyn massacre earlier that same spring. If the German armies had indeed become bogged down in Western Europe and in their weakened state posed much less of a threat as the Soviets had initially hoped, the outcome would have probably been very different. It is more than likely the remaining Polish officers would have been sacrificed to Soviet territorial ambitions in a similar way to their predecessors. Motives driven by cultural differences do not appear to provide a convincing explanation for the very different treatment accorded to different groups of Polish prisoners over time.

Second, perhaps Soviet abuse of the Poles was rooted in a particular historical hatred of far greater magnitude than for any other adversary, irrespective of their particular cultural attributes. Related to this point is the argument that the Katyn massacre was revenge for the Soviet Union’s humiliating defeat during the 1919-1920

²⁵¹ Quoted from No.47/13b Top Secret TsK VKP (b), Note from Beria to Stalin on the Possible Organization of Military Units with Polish and Czech Prisoners of War, 2 November 1940, Moscow (Cienciala et al. 2007:276-278).

Russo-Polish War (Paul 1991:49). Grievances from the earlier war certainly loomed large in the Communist leadership, but if the thirst for revenge was driving Soviet actions it is again not clear why the later group of Polish officers taken from the Baltic states were not executed. In the eyes of Stalin and the Politburo, these prisoners should have been just as guilty as the Katyn victims for the prior war. Furthermore, one of the main survivors from the massacre, Colonel Berling, who would later become the commander of the Soviet-sponsored Polish People's Army, had fought Soviet forces and distinguished himself during the previous war (Cienciala et al. 2007:142).

The earlier conflict between the two states was used in one interesting manner by later Russian defenders to counter the seeming unique brutality of the Katyn massacre. A great number of Russian prisoners died in Polish captivity during the 1919-1920 war and several Russian officials and historians have attempted to portray this event as a sort of "anti-Katyn" to demonstrate that Poland was also guilty of similar levels of combatant abuse (Sanford 2005:8). Historical records show this is a difficult case to make. Although upwards of 20 percent of Soviet prisoners did not survive their time in Poland's camps, this was more a function of neglect rather than a calculated strategy by the Polish government, which was compounded by the already sick and weakened condition of many Russian prisoners upon entering captivity (State Archives in Poland 2004). Furthermore, Polish prisoners in Russian hands did not fare much better during the conflict, which casts doubt on the notion that Katyn was revenge for earlier Polish one-sided killings (Davies 1983:3; Ferguson 1999:394). At best both sides were guilty of abuse during the earlier conflict, and the Soviet Union certainly did not possess a monopoly on prisoner-related sources of grievance.

Third, perhaps the Soviet Union's Communist ideology drove them to destroy the Polish officer corps rather than anything inherent about the Poles themselves. A large body of literature has developed to explain the widespread use of violence by

Communist regimes in order to consolidate power and hasten radical changes to domestic societies (Dallin and Breslauer 1970:5-6).²⁵² When translated to the particular context of the treatment of prisoners during interstate wars, the quantitative analysis in Chapter 4 indicates that Communism is a poor predictor of combatant abuse. Nevertheless, the targeting of the officer corps, who were more than likely far removed from the Polish proletariat, might explain quite well the particular pattern of abuse in the Polish case as a way for the Soviet Union to guard against the larger menace of “bourgeois contagion” (Zaslavsky 2008:4-5). Writing about a future war with a capitalist state, which Poland would have certainly qualified in Soviet eyes at the time, one prominent Soviet legal scholar argued ordinary enemy combatants would be welcomed as common brothers in arms. The attitude toward captured officers was quite different and potentially foreshadows the eventual fate of the Polish contingents:

The situation would not be at all the same were officers taken prisoners, however. Obviously, it could not be expected that officers, who in the majority of cases do not belong to the proletariat, would be converted to communism by mere theoretical instruction. Hence the officers would always be considered by the Soviet authorities as class enemies.²⁵³

Although most of the prisoners at the Kozelsk and Starobelsk camps might indeed fall under the bourgeoisie moniker, the vast majority of the inmates at Ostashkov were policemen, prison guards, and other individuals who could not credibly be accused of being bourgeois. Despite their more working class background, they were targeted with the same ferocity as officers from the armed forces. The collective punishment of the prisoners from the special camps seems more consistent

²⁵² For a thorough review of the literature on Communist regimes and the use of violence, see (Valentino 2004:92-100). Though it should also be noted that Valentino develops a more fine-grained typology that distinguishes radical Communist regimes from those that for a variety of reasons are less likely to engage in large amounts of violence (Valentino 2004:142-149).

²⁵³ Excerpt from T.A. Taracouzio, *The Soviet Union and International Law*, quoted in (Zawodny 1962:129).

with an attempt to dismantle the coercive apparatus of the Polish state rather than target the bourgeois class per se (Cienciala et al. 2007:142). On the other hand, two of the survivors from Katyn were princely aristocrats who were certainly more deserving than many of the other victims of the label of class enemies (Zawodny 1962:145). In contrast to those officers who were spared, Stalin was also known throughout this period to liquidate avowedly Polish communists who were thought to be too independent-minded (Davies 1982b:452). Soviet decisions on who lived or died appeared to have been driven more by considerations of which individuals posed the greatest threat to their continued rule over Polish territory rather than by straightforward ideological commitments.²⁵⁴

Fourth, the final alternative is somewhat related to territorial issues but the emphasis focuses more on Soviet concerns to please Germany after their mutual dismemberment of Poland and demonstrate they could be a trusted partner (Weinberg 1994:107). In a similar manner to the Soviet Union, the German government took over large portions of Poland, though it also installed an occupying General Government (*Generalgouvernement*) over the remaining territory. Although they never quite reached the same degree of targeting killing as at Katyn, the Germans followed a similar territorial pattern of committing very high levels of abuse against Polish prisoners as well as civilians (Datner 1962:10, 21-22).²⁵⁵ Both countries also engaged in a certain degree of cooperation, including prisoner exchanges and a modest amount of intelligence sharing. The Katyn massacre appears perfectly in line with

²⁵⁴ Though it should be noted that in some ways the territory and class arguments might be better viewed as complementary rather than competing explanations for combatant abuse. The Polish officer corps in particular was viewed as an extension of the bourgeoisie, so eliminating the officers had the dual benefit of removing a threat to the Soviet Union's territorial hold on Poland, but its larger ideological project of spreading communist principles throughout the region.

²⁵⁵ In words reminiscent of the feelings expressed by the Soviet leadership, Hitler ordered German forces to kill and commit atrocities "without pity or mercy [against] all men, women, and children of Polish descent or language. Only in this way can we obtain the living space we need" (Lukas 1986:3).

requirements under the second Secret Protocol of the German-Soviet Treaty on Friendship, which called for both parties to eliminate possible sources of agitation within their respective Polish territories (Cienciala et al. 2007:61-62). The biggest problem with this argument is the fact that the NKVD took every step possible to conceal the massacre from German authorities. It seems strange that the Soviet Union would try to cover up the crime and not report anything to the partner it supposedly wanted so eagerly to impress.

In sum, an examination of a number of alternative explanations suggests that none perform as well as the territorial motive in accounting for a wide range of details relating to the Soviet decision to commit the Katyn massacre. An analysis of the Katyn case provides a nice complement to the briefer series of comparative case studies in the prior sections of the chapter. An examination of Soviet conduct across multiple wars showed that the Soviet Union was most likely to resort to higher levels of combatant abuse when it was seeking to re-absorb conquered territories. Looking in greater detail at the specific case of the Katyn massacre shows that the motives underlying combatant abuse during wars of territorial re-absorption are primarily preventative in nature. Soviet authorities abused Polish prisoners in an attempt to stamp out any future rebellion or threat to their hold on newly conquered Polish lands. Polish officers were selected for a particularly brutal punishment because they represented the most salient threat out of the entire Polish prisoner populace to Soviet territorial interests. The between-case analysis of Soviet conduct across several wars, along with the within-case analysis of Soviet abuse in the Polish episode, together demonstrated that when territory is at stake the dangers facing prisoners are likely to be extremely high.

Conclusion

The case of the Katyn massacre during the Second World War indicates that when a captor state seeks to annex territory from its opponent, the fate awaiting enemy prisoners will more likely than not be extremely brutal. The threat posed by Polish soldiers to the Soviet Union's long-term absorption of lands acquired through the Molotov-Ribbentrop Pact meant these prisoners would be liquidated to reduce the strength of any future resistance movement. Although almost all Polish prisoners were treated harshly, the Katyn massacre shows that those groups most threatening to Soviet rule, in particular the officer corps, were more likely to be dealt with in the most final and definitive manner possible. By killing almost every single Polish officer under their control at the time, Soviet authorities were attempting to ensure that those with the greatest capability to organize and rise up would not be around to do so.

The perpetrators of the Katyn massacre were part of a Communist regime known for large-scale brutality at home. In this light it is perhaps not surprising that Stalinist Russia chose to deal with Polish prisoners in such a ruthless manner. As attractive as this alternative account may seem, through an initial series of comparative case studies I attempted to show how there was nothing intrinsic to the Soviet regime that would inevitably lead to high levels of combatant abuse. In other conflicts during the same period, the Soviet Union was often just as likely to treat prisoners in a humane manner, or at least commit more modest levels of abuse overall, as in the Winter War against Finland. However, in instances where the Soviet Union held strong territorial ambitions, as in the Baltic states, prisoners suffered an equally savage fate to the Katyn victims. In sum, the territorial logic seems to offer a more compelling explanation for not only the general level of violence meted out by the Soviet Union toward their captives, but also for variation the relative levels of abuse suffered by different segments of the prisoner population.

Despite the inclusion of several additional cases to put the Katyn massacre in a broader perspective, this chapter still focused solely on the actions of the Soviet Union during a fairly narrow period of time. One of the limits of this period was in the cases of Soviet territorial re-absorption, the targeted country had little opportunity or capacity to retaliate. Considering other cases that vary not only on degree of the adversary's retaliation, but also the nature of the war aims, would provide an opportunity to further evaluate the relative role of reciprocity and war aims, as well as their possible interaction, on the resort to combatant abuse. In the case of the Soviet Union, examining the treatment of the national armed forces and other groups during the occupation of various Eastern European countries in the post-World War II period could provide another valuable source of comparison along these lines.

A further comparative element might be gained by examining instances of democracies and territorial war aims as a complement to this chapter's focus on a particular autocratic regime. The overall quantitative analysis indeed showed that democracies were less likely in general to commit high levels of abuse compared to nondemocracies. This does not mean, however, that democracies are inherently less likely to commit combatant abuse when seeking territorial annexation. As Chapter 5 demonstrated, there are limits on the degree to which democracies are in fact restrained when treating prisoners. Looking at the overall data on interstate wars from 1898 to 2003 suggests that when confined to instances where belligerents seek to annex territory from their opponent, democracies are just as likely as autocracies to engage in the most extreme forms of violence against enemy combatants.²⁵⁶ For

²⁵⁶ The data even suggest that democracies may be slightly *more* likely than autocracies to commit combatant abuse when territory is on the line. However, this result should be considered tentatively since there are only a small number of cases of democracies involved in territorial annexation compared to the greater disposition of autocracies to seek this objective during war. There are eight total observations that meet these criteria, half of which concern Israel during the 1948 Palestine War.

instance, during the 1948-1949 Palestine War, the newly formed democratic state of Israel proved more than willing to commit many acts of combatant abuse in order to wrest control of surrounding lands from their Arab adversaries (Gutman and Rieff 1999:30; Morris 2008:405). However, democracy may also have an indirect effect on territorial issues if it can be established that democracies are less likely to become involved in wars of territorial annexation in the first place. Taking into account not only different regime types, but also how states form their war aims in the first place, points to several interesting avenues to develop a fuller understanding of the relationship between territorial ambitions and the treatment of prisoners during war.

CHAPTER 7

CONCLUSION

Review of the Main Argument and Findings

In this study I began by pointing to the divergent experiences of many soldiers once they lay down their arms and surrender to the enemy. While some have been treated in a decent and reasonable manner, others have not been so fortunate and suffered greatly at the hands of their captors. These divergent fates led to the following research question: what explains differences in the treatment of prisoners during war?

I developed a theoretical framework centered on the nature of the belligerents and the bloodshed to explain variation in combatant abuse during interstate wars. I expected democratic belligerents to be less likely to abuse enemy combatants either because of a commitment to democratic norms of individual rights, or because of institutionally-driven incentives which lead to sensitivity to both the costs of retaliation and the strategic benefits of humane conduct. In contrast, the severity of the fighting on the ground as well as the pursuit of territorial war aims, in particular those of revisionist re-absorption, increased the likelihood states would resort to combatant abuse. Operating behind both the nature of the belligerents and the bloodshed was a shadow of reciprocity that loomed large in shaping the expectations and conduct of the warring parties.

I tested several hypotheses derived from this theory using a new data set on the treatment of combatants during all interstate wars from 1898 to 2003. The quantitative results showed strong support for both the constraining role of democracy, and the enabling force of reciprocity and the nature of the bloodshed. Alternative explanations, such as the role of cultural differences or international law, received much less support.

I then subjected the two components of my theory to further scrutiny through a combination of additional statistical analysis and in-depth comparative case studies. In Chapter 5, I argued that democracies do tend to treat prisoners better on average, but normative considerations carry little weight compared to institutional incentives. The record of the main democratic belligerents during the Second World War further demonstrated that these incentives could be extremely fragile and result in a corresponding decline in the treatment of prisoners. In Chapter 6, I focused on the specific issue of territorial motives and demonstrated that differences in the resort to combatant abuse by the Soviet Union can best be accounted for by the aims of Soviet leaders with regards to enemy territory. Taken together, the body of evidence using multiple methods suggests that key attributes of the belligerents themselves and the nature of the bloodshed go a long way to understanding when and at levels combatant abuse occurs during warfare.

Relevance of the Argument for Existing Research on Wartime Politics

Neither my argument nor the research design was formed in a vacuum, and I benefited greatly from an impressive body of existing research on states in the midst of war. Three works in particular are related in a variety of ways to my own research: Dan Reiter and Allan Stam's *Democracies at War*, Benjamin Valentino's *Final Solutions: Mass Killing and Genocide in the 20th Century*, and Alexander Downes's *Targeting Civilians in War*. In this light, it is worth considering how my research and arguments relate to theirs.

Reiter and Stam move beyond the large literature on the democratic peace to argue that not only are democracies less likely to fight each other, but they are also highly likely to win the wars they do end up fighting. They propose the reasons for the democratic propensity for victory are that they are more adept at selecting easy wars they are especially likely to win, but also that they fight better on the ground

irrespective of the war's difficulty (Reiter and Stam 2002:4-5). My argument is more relevant to the latter "warfighting" component of their democracy and victory thesis rather than the first "selection effects" component. Reiter and Stam actually briefly touch on the association between prisoners and warfighting effectiveness in their book. In a similar manner to my argument on the strategic benefits of good prisoner conduct, they point out that inducing surrenders can translate into enormous gains on the battlefield by depriving the enemy of their fighting force and ultimately shortening the war (Reiter and Stam 2002:66).

Our emphasis on the implications of this relationship between surrender and victory in war nevertheless differs somewhat. Reiter and Stam focus on the beliefs of individual soldiers regarding the credibility of autocratic versus democratic captors, and argue that democracies have an easier time convincing enemy troops they will be properly treated if they surrender. As I discussed in previous chapters, this risks a certain circularity in reasoning as democracies treat prisoners well because those prisoners believe they will be treated well and so on and so forth. Despite these issues, my work is ultimately complementary to Reiter and Stam's as I evaluate the prior empirical question of whether or not democracies do in fact treat enemy combatants in a better manner than autocratic captors. That democracies are more humane reinforces Reiter and Stam's point that democratic belligerents are better able to reap the rewards from encouraging enemy surrenders.

My research complements Reiter and Stam's arguments in broader ways as well. By generating more systematic evidence that democracies treat prisoners more humanely, my findings provide a further mechanism reinforcing their main thesis that democracies win the wars they fight. Given that other scholars have challenged Reiter and Stam's arguments on a number of fronts, my research contributes to the larger

debate on the logic and empirical validity of the democracy and victory thesis.²⁵⁷ My arguments also speaks to the narrower issue of exactly why democracies act differently than other regime types. Reiter and Stam's main arguments regarding the "skeleton" and "spirit" of democracy dovetail closely with my institutional and normative accounts of democratic behavior (Reiter and Stam 2002:5-7). Although they find support for both factors, my argument largely centers on the greater role played by institutional incentives compared to normative considerations. While our two perspectives might appear to differ, Reiter and Stam employ the institutional approach to explain the behavior of democratic states, or their governments more specifically, while reserving the cultural variant more to account for the behavior of soldiers on the ground (Reiter and Stam 2002:9). Since my research focuses on the conduct of states, my arguments regarding the role of domestic institutions in shaping the treatment of prisoners by democracies in many ways strengthens the institutional approach offered by Reiter and Stam. Of course, it would be interesting in future work to investigate more specifically the behavior of soldiers with regards to both the treatment of enemy prisoners and the decision to surrender in order to assess the relative role of normative factors in comparison to Reiter and Stam's related arguments in this area.

My research shares an emphasis with Reiter and Stam on examining the role of regime type during war, but their concern is more for the outcomes of wars while attention to the actual conduct of belligerents toward defenseless groups on the ground is relatively limited.²⁵⁸ My project is thus in many respects much closer to the work of Valentino and Downes, where the conduct of states toward victims is of central importance. The most obvious difference between my work and their own is that we

²⁵⁷ Some of the most notable criticisms of Reiter and Stam's work include (Desch 2002; Biddle and Long 2004; Downes 2009).

²⁵⁸ Though they do briefly consider some of these issues related to the treatment of civilians and soldiers in several sections of their study (Reiter and Stam 2002:65-69; 152-158).

deal with very different sets of victims. Valentino and Downes both deal with various aspects of the targeting of civilians, while my work focuses on prisoner issues. Despite the different emphasis in subjects, my work shares several similarities to theirs along with some contrasts.

Valentino's study of the mass killing of civilians posits in a similar manner to my work on prisoner treatment that abuses are driven more by instrumental motives rather than by emotion or irrational hatreds (Valentino 2004:3-4). Although we may differ to a certain extent on the factors expected to lead to civilian or combatant abuse, we share an assumption that violations are purposive acts through which actors seek to attain certain desired ends. The logic underlying our respective theories of atrocities, irrespective of the particular type of victim, is thus fundamentally consistent.

The main differences between my work and Valentino's concerns the context under which abuses occur and the role of particular factors in making abuse more or less likely. On the first issue, Valentino focuses for the most part on mass killings that are perpetrated within a country's own borders, in particular those involving Communist, ethnic, or counter guerrilla motives (Valentino 2004:4-6). Valentino incorporates an external dimension into the counter guerrilla category, such as the Soviet war in Afghanistan, but even here the emphasis is generally on the domestic level.²⁵⁹ Valentino's universe of cases thus differs from my focus on interstate warfare. Despite the difference in case selection, Valentino's theory offers a great deal for understanding my own approach. Although he does not deal with wars over territory in great empirical detail, his theoretical expectations that territory will increase mass killing closely fits with my own reasoning and findings (Valentino 2004:77-80). Similarly, his discussion of the impact of wars of attrition on mass

²⁵⁹ For instance, Valentino also focuses to a large extent on guerrilla insurgencies during civil wars or rebellions, and the mass killing in Guatemala during the 1970s and 1980s in particular.

killing mirrors my expectations regarding the relationship between extremely severe wars and combatant abuse (Valentino 2004:84-87).

In other respects we end up finding different results on the causes of our respective type of abuse. One of Valentino's main findings is that Communist regimes are especially likely to resort to civilian mass killing, though even here atrocities are much more likely when the leadership seeks an especially radical reorganization of society (Valentino 2004:73). In contrast, I find in a quantitative analysis of combatant abuse that Communist regimes are no more likely to mistreat prisoners than other types of autocracies. My non-finding regarding the role of Communism is perhaps even more surprising, since the main Communist belligerents in my data set, such as the Soviet Union, Cambodia, and North Korea, were also some of the most radical. As I showed in greater detail in Chapter 6, the Soviet Union in fact demonstrated significant variation in the treatment of prisoners and reserved the most brutal punishment of prisoners mainly for those conflicts where territorial aggrandizement was at stake. Since Valentino and I deal with different conflict contexts, our arguments are not necessarily contradictory. Communist ideology may have indeed played a significant role domestically, but stopped "at the water's edge" where other factors played a greater role in the policies of these regimes during interstate wars.²⁶⁰

In a similar manner, Valentino's analysis of the role of democracy differs somewhat from my own. While I argue that democratic belligerents are much less likely to resort to combatant abuse, Valentino is more skeptical regarding the restraining effects of democracy on mass killing (Valentino 2004:27-28). Even here, however, our arguments are not completely at odds. Valentino acknowledges that democracies may indeed be less likely to engage in atrocities, and in later work he and

²⁶⁰ In a similar manner, Gowa argues that partisan politics has played little role historically in explaining the resort to the use of force abroad by the United States (Gowa 1998:319).

several colleagues find this is indeed the case (Valentino et al. 2004:394). His caution appears to be directed more at those believing that democracy has the potential to be a panacea guaranteeing humane treatment, which does not help in understanding the broader context under which regimes of any type might be more or less likely to resort to abuse. In my research I explicitly acknowledge that democracies have sometimes employed high levels of violence against violence. My focus on the conditions under which democracy is less likely to act as a restraint, along with identifying the nature of the bloodshed and the role of reciprocity, goes some way to addressing Valentino's concern of accounting for a broader set of factors explaining the use of violence against defenseless victims. My work is thus in many ways complementary to Valentino's by bringing attention to the ways in which states are motivated to harm individuals on the ground, whether those victims are civilians or combatants.

Lastly, my research perhaps speaks most directly to Alexander Downes's work on the targeting of civilians even though he, like Valentino, deals with a different category of victims. In a similar manner to Downes, I limit my analysis to the causes of abuse in the context of interstate wars. We also find a number of factors that influence the resort to violence by states are the same for civilians and prisoners, in particular the severity of the fighting and territorial war aims. The biggest difference lies in our findings regarding the relationship between democracy and abuse. As I briefly discussed in the quantitative analysis in Chapter 4, I find that democracy has a restraining effect on combatant abuse, but Downes shows in contrast that democracies are actually *more* likely to target civilians (Downes 2008:64).

Our results, therefore, appear to be fundamentally at odds with one another. However, my examination of the conduct of the democratic belligerents during World War II in Chapter 5 suggests some ways in which our two findings might be reconciled. I showed during the war that at the same time as the United States and

Britain were treating Axis prisoners in a fairly humane fashion they were more than willing to target enemy civilians mercilessly. Conduct toward civilians and prisoners is, therefore, not always closely correlated. I argued that two of constraining factors for democracies in the case of prisoners – fears of reciprocity and attention to strategic benefits from good conduct – were either much weaker or absent when looking at civilians. Examining some of the mechanisms underlying the aggregate democracy finding goes some way to understanding why democracies may act differently depending on particular issue under study, but more work on this question is certainly warranted.

Despite our different conclusions, Downes and I share an emphasis on the relative importance of institutional as opposed to normative factors in explaining the conduct of democracies during war (Downes 2008:22).²⁶¹ Although we differ in how we develop the implications of domestic institutions for the conduct of states, our arguments regarding the role of regime type shares a similar underlying logic. In sum, my work differs in certain respects from the notable studies by Reiter and Stam, Valentino, and Downes, but in many ways my research should ultimately viewed as complimentary and contributes to this wider body of work on the behavior of states during war.

Relevance of the Argument for Armed Conflict in the Contemporary Era

My work in many ways fits quite closely with existing research on the conduct of war and contributes to this larger research agenda. On a more pragmatic note, and after so much time and effort spent searching for obscure information relating to particular historical episodes and coding hundreds of cases of combatant abuse, researchers like me face a daunting question: even if my argument is correct, and this

²⁶¹ In a similar manner to Valentino, both my work and Downes's downplays the direct role played by cultural differences in accounting for the resort to abuse (Valentino 2004:16-22; Downes 2008:24-26).

is always a big if, what relevance does it provide for understanding the contemporary state of the world? I take up this concern in light of several of the choices I made in limiting the scope of the study along with the continued pertinence of the main findings in the current era of armed conflict.

The Choice of Interstate Wars

In the introduction I noted that I decided to confine the study to interstate wars given the time intensiveness of coding the main dependent variable of combatant abuse. Some of the most notorious conflicts of the past century, such as the world wars, have indeed been fought between states. Several post-war commentators have suggested, however, that interstate war is increasingly becoming obsolete (e.g. Mueller 1990:321).²⁶² If interstate wars are indeed becoming extinct, then my study might be expected to provide little insight into the fate of prisoners in contemporary and future conflicts. Compared to the numerous conflicts that began during the interwar period which culminated in the Second World War, the last decade might seem like a fairly quiet time in terms of conflictual relations between states.²⁶³

Even as many commentators have increasingly focused on civil wars and other conflicts, wars between states remain an enduring part of the contemporary international landscape. The Cold War was only just coming to an end when the Persian Gulf War broke out, which involved one of the largest coalitions of states of all time. The treatment of Iraqi soldiers and the abuse of prisoners from the UN Coalition forces became key issues during and after the war. For instance, U.S. soldiers and civilians abused in Iraq have filed lawsuits seeking compensation for their

²⁶² Though Mueller notes that this tendency for wars between states to become unthinkable is generally more pronounced in what he terms the “developed world.”

²⁶³ In contrast to the onset of nine interstate wars for the period 1930-1939, the Correlates of War (COW) project list only one new interstate war beginning after 1990 (Sarkees et al. 2003:61). As noted in Chapter 3, however, COW has not yet incorporated several recent wars, which alter this picture somewhat.

suffering, which have still yet to be settled (Myers and Glanz 2008:A1). The continuing rivalry between India and Pakistan over the disputed Kashmir region, which broke out into a small-scale conflict in the Kargil district 1999, shows that a major war in one of the most populated areas of the world remains an ever-present danger.

The War on Terror has rightly brought attention to the threat posed by non-state actors, but it is indicative that the two wars resulting from the 9/11 terror attacks have been between states. The 2001 U.S.-led war in Afghanistan is perhaps best seen as an interstate war, since the Taliban were the de facto rulers of much of the country. This was followed in 2003 by a clear interstate conflict with Iraq that led to the toppling of Saddam Hussein. The treatment of prisoners during interstate wars consequently will likely remain an important issue for some time to come.

The Severity of the Fighting

The quantitative analysis showed that the severity of the fighting on the ground greatly increases the likelihood that states will resort to combatant abuse. Although the incidence of warfare might not have changed substantially over the years, the severity finding might be less meaningful if the wars that do occur are becoming less bloody. A recent study has shown that the probability of a soldier dying during battle has actually declined consistently since the beginning of the 20th century (Lacina et al. 2006:673). As wars appear to become less severe, then one of the main causes of combatant abuse might also be less relevant in the current era. On the other hand, other research suggests that the relative severity of wars in terms of battle deaths shows no clear downward trend over time (Sarkees et al. 2003:65).

Each view is based on different data sets and operationalizations of battle deaths, which means it is difficult to come to a definitive conclusion regarding trends in the relative severity of wars. Looking at the large-n data used in this study, I find

that wars of attrition, which tend to be particularly severe, are slightly less likely to occur over time, but this association is far from clear-cut.²⁶⁴ Even granting that interstate wars might have become less and less severe over the years, recent conflicts show that attritional warfare will remain a hazard for some time to come. The heavy fighting along fortified positions that typified much of the 1998-2000 war between Ethiopia and Eritrea was in many ways reminiscent of the trench warfare on the Western Front during the First World War (Biles 2000). During the war tens of thousands of troops died in hopeless frontal assaults, while prisoners from both sides were horribly abused (Clodfelter 2002:618; Weeramantry 2005:468). Wars of great severity are likely to endure, whether they involve opposing national armies on vast battlefields or the drawn-out character of increasingly prominent counter-insurgency operations.

Territorial Annexation

Of the three main variables of the nature of the belligerents and bloodshed framework, wars involving territorial annexation was the single most important factor associated with combatant abuse, but it is also potentially the most obsolete. Many scholars argue the value placed on possessing territory has gradually given way to new more fluid forms of authority and state sovereignty in the contemporary era (Ruggie 1993:148-149; Biersteker 2002:163-166). The increasing fragmentation of production processes and the growing importance of knowledge-intensive industries may also substantially reduce the benefits of territorial conquest (Brooks 1999:655-663).²⁶⁵

The available evidence indicates that territory remains a valued and contested prize in times of war and peace even as notions of territory may continue to change

²⁶⁴ As a rough test, the correlation between the war of attrition variable and a war's start year is -0.22.

²⁶⁵ Brooks also points to other contributing factors, such as the rise of inter-firm alliances across countries and the growing ease of obtaining resources through foreign direct investment, which have further decreased the incentives to conquer foreign territories (Brooks 1999:663-666).

over time (Kahler 2006:2-3). The number of ongoing territorial disputes, where two or more states lay claim to the same piece of land, has not declined significantly since the early years of the 20th century.²⁶⁶ If anything, the post-Cold War period has witnessed an upsurge in disputes compared to prior decades, which has been driven in part by many newly independent states gaining seeking to extend their borders. States often seek to settle their disputes short of military force, but the presence of conflicting claims over territory poses the danger of wars breaking out that would likely be extremely grave for any resulting prisoners.²⁶⁷ Although it did not escalate to a full-blown war, the recent conflict between Russia and Georgia in 2008 over the disputed areas of South Ossetia and Abkhazia, shows that territorial aims are likely to remain in one form or another for the foreseeable future.

Democracy

The overall pattern of democratic restraint in the treatment of prisoners seemingly provides one of the more hopeful implications for the future of warfare. Many scholars and policy makers have grabbed hold of the democratic peace thesis to espouse the spread of democracy around the world as a way to ensure international peace and security (Clinton 1996:22-23).²⁶⁸ The results from this study suggest that expanding the realm of democratic states may not only make armed conflict less likely, but also mean those wars that do occur will be relatively more humane.

²⁶⁶ Based on Figure 1.1 from (Huth and Allee 2002:28).

²⁶⁷ Evidence from the data set on combatant abuse suggests that wars of territorial annexation remain, in fact, fairly common over time. As a rough test in a similar manner to the war severity variable, the correlation between wars of territorial annexation and the starting year of the war is negative but very small ($r = -0.009$).

²⁶⁸ As one of the foremost proponents of the democratic peace, Russett also asserts that democracy promotion is a valuable endeavor. However, he cautions that such a policy should not necessarily turn into forcible regime change, since from the point of view of international conflict many authoritarian regimes are not inherently aggressive (Russett 1993:135).

Upon closer examination of several cases of democratic belligerents, the promise of democracy needs to be tempered somewhat. The commitment of democracies to humanitarian principles protecting the rights of prisoners appears tepid at best, though there is some ground for optimism.²⁶⁹ Institutional incentives seem to perform much better, but the historical record shows the strength of these motives can depend greatly on the particular context and can be overcome by competing factors. One theme that came out of the case study sections is that it is not democracy per se as an abstract concept of regime type that matters, but rather a set of underlying mechanisms that tends to be associated with democratic institutions. When these mechanisms are weak, then the behavior of belligerents may correspondingly worsen. This should especially be the case for democracies facing situations where other contributing factors, such as reciprocity, war aims, and the severity of the fighting, which make the resort to abuse much more likely.

Alongside the key set of factors related to my theory of the nature of the belligerents and the bloodshed, an additional potentially important contextual factor concerns the type of war a belligerent is fighting. Questions concerning the implications of different types of conflicts were largely set aside in this study given that I limited much of the overall analysis to wars between states. When thinking about conflicts beyond the realm of interstate warfare, the prospects for prisoners may indeed differ in substantial respects. Examining other conflict types also provides an opportunity for considering ways in which the various components making up the nature of the belligerents and bloodshed framework apply in other contexts.

²⁶⁹ In supplementary quantitative analysis I find that democracies that ratify international treaties relating to the laws of war are more likely to comply with provisions protecting prisoners. Furthermore, while international humanitarian norms do not appear to hold much sway across states as a whole, democracies appear to have become relatively more sensitive to such norms over time.

Making the Theory Travel: The Abuse of Combatants in other Types of Armed Conflict

Even if conflicts between states continue to arise, how should we evaluate combatant abuse in other forms of warfare? In particular, to what degree do the factors associated with the nature of the belligerents and bloodshed framework provide insight for understanding the treatment of prisoners outside of interstate war? I evaluate the relative incentives for combatant abuse across several different types of warfare, both past, present, and future.

Colonial Wars

Although pretty much non-existent over the last few decades, colonial wars, also sometimes known as “extra-state” wars, were a common occurrence throughout much of the 19th and early 20th centuries (Sarkees et al. 2003:61). Colonial wars inevitably involved some form of control over a foreign land of people, whether this simply meant acquiring land to extract natural resources, or more ambitious plans like sending settlers to populate the new holdings. Territory was almost always a stake in such conflicts, and if my arguments from this study are indeed correct, then prisoners were likely to be brutally treated in most cases.

Unlike the purported tendency of democratic states to settle their territorial disputes peacefully, the heyday of colonial activity in the late 19th century showed that democracies were just as avid colonizers as any other type of regime. Democratic belligerents like the United States were often merciless in fighting their wars of imperial expansion. On the American continent itself, the United States prosecuted a series of wars against various Indian tribes as it expanded its borders ever more westward. During these wars prisoners were often horribly treated, while those lucky enough to survive often languished on poorly equipped reservations (Vance 2006:355, 370-371). Later during the U.S. war in the Philippines from 1899-1902, U.S. forces

often relied on torture and summary executions as tools to cow the Filipino population into submission (Linn 1989:79). British treatment of prisoners during its colonization of present-day New Zealand during the Maori Wars of the 19th century was initially fairly moderate, but as resistance continued royal forces turned to increasingly brutal tactics (Farwell 1977:342-343; Vance 2006:47).

In contrast to the non-finding for cultural differences from my analysis of interstate wars, many of these conflicts shared a common theme where issues of race seemed to play a crucial role in guiding the treatment of prisoners. As Vance remarked in reference to the Maori Wars, but also in relation to colonial conflicts more broadly:

A feeling among European armies that imperial wars were not governed by the laws or customs of European wars, particularly where prisoners were involved, together with a simple tendency to retaliate in kind when atrocities occurred, all too often set in motion an escalating spiral of abuse against POWs and civilian prisoners” (Vance 2006:255).

Vance’s comments suggest that different factors may have varying effects depending on the particular type of war. The propensity of democracies to engage in colonial wars, along with their equally brutal treatment of prisoners, might at first seem puzzling from my attention in large parts of this study to the constraining effects of democracy. When looking at both the mechanisms underlying democratic conduct as well as the role of other contributing factors, the poor behavior of democracies in colonial wars is not quite so surprising.

The frequent atrocities committed by democratic colonizers certainly calls into question the supposed force of democratic norms of humane conduct (Reiter and Stam 2002:151-152). However, even in interstate wars and cases where democracies conducted themselves more humanely, I found that domestic norms played little constraining role in this regard. On the other hand, the restraints associated with the institutional approach probably have much less of an effect in a colonial context. Any

strategic benefits from good treatment likely appear slight when compared to the potential advantages of using violence to coerce the enemy population to acquiesce to the conqueror's rule. Expectations over reciprocity might also be substantially weaker, especially if racial attitudes make democracies or other states presume that the combatants to be colonized cannot be trusted.²⁷⁰ The record of colonial warfare thus suggests that democratic norms and institutions may provide few protections to those soldiers unfortunately enough to be captured. Ultimately, I can only offer some preliminary conjectures, since no data set yet exists which looks at combatant abuse during colonial wars. The historical record is at least suggestive that combatant abuse is likely to be much higher in colonial compared to interstate wars, since territory, culture differences, and expectations of reciprocity are likely much more prominent, while the constraints of democracy appear to be considerably lower.

Civil Wars

In many ways civil wars might appear to be an even tougher case for the prospects of proper prisoner care than interstate conflict. Compared to the extensive system of international humanitarian law governing interstate conflicts, the available

²⁷⁰ It should be noted that my line of reasoning here linking expectations of reciprocity to conduct during war draws several parallels with Ido Oren's argument on the relationship between a state's foreign policy goals and the subsequent subjective evaluation of the adversary's regime type. Oren argues that a state is more likely to view an enemy as autocratic irrespective of the latter's actual domestic norms and institutions, while friendly countries will correspondingly be considered more democratic (Oren 1995:150-151). The main difference is that my argument posits how certain factors in colonial wars may influence expectations regarding the actual *conduct* of enemy belligerents, but does not necessarily imply anything regarding the adversary's perceived regime type or other national institutions, which is the focus of Oren's approach. Perceptions of the adversary's regime type are in no way central to my overall argument, which centers on the regime type of the potential abuser. One of the main implications of Oren's arguments is that this subjective coding of an adversary's regime type introduces bias in favor of the merits of democracy in major research programs like the democratic peace. As I discussed earlier in Chapter 4 even if we accept Oren's premises, I do not believe this overly biases the general findings regarding the constraining effects of democracy on combatant abuse during interstate wars. My discussion here of expectations of reciprocity and combatant abuse does not laud the benefits of democracy, and if anything points to some of the limits of democracy as a constraint on foreign policy. Nevertheless, it may be interesting in future work to consider in a more rigorous manner expectations of the adversary and how this shapes not only the choice of states to go to war, but also their subsequent conduct.

legal proscriptions on combatant abuse during civil wars are relatively sparse. In the 1949 Geneva Conventions, Common Article 3 is the sole provision dealing with cases deemed to be “armed conflict not of an international character.”²⁷¹ Article 3 does call for limiting certain types of violence, but compared to the rest of the convention the provisions are not nearly as extensive or precise. It was only in 1977 that a specific agreement, the Additional Protocol II, was negotiated which deals specifically with the laws of war during civil conflicts. Protocol II was certainly a step forward, but remains far from adequate. Its interstate war sibling, the Additional Protocol I, extended protections under the Geneva Conventions and included over one hundred separate articles detailing various obligations and restraints involving wars between states. In comparison, Protocol II contains only one-quarter as many provisions, and several do not carry nearly as much force relative to similar provisions under Protocol I. For instance, Protocol II does not even accord any special protected status to prisoners of war compared to the extensive treatment of prisoner issues in Protocol I.²⁷² While I found the actual impact of international law on the behavior of states during war to be a promising but limited factor, the lack of clear rules or expectations for the treatment of prisoners in civil wars poses an even greater obstacle to proper conduct.

One further related problem in civil wars is that unlike interstate wars one side is often not an officially recognized actor in the international community. Rebel groups usually have no international standing. Because of the frequent lack of international legitimacy for rebels, governments may perceive that reciprocity is not

²⁷¹ For the full text of the article, see <http://www.icrc.org/ihl.nsf/WebART/375-590006?OpenDocument>.

²⁷² For instance, specific provisions are made for medical personnel (Articles 9-12) and the civilian population (Articles 13-14, 17), but no section dealing specifically with prisoner issues. This does not mean that no provisions are relevant for the treatment of prisoners, but these fall under much more general proscriptions against various sorts of violations targeting all groups during war (e.g. Articles 4-7). By contrast, Protocol I devotes an entire section of the agreement to prisoners of war and several other articles directly touch upon prisoner issues.

likely to hold even if they limit themselves to humane conduct. In the same way as in colonial wars, expectations of reciprocity may weaken and correspondingly a further incentive for democratic and autocratic incumbent governments alike to limit abuses against prisoners from their challengers may disappear. The lack of legitimacy for rebel groups also frequently means that humanitarian organizations like the ICRC have a difficult time operating in civil war contexts and their attempts to improve the lot of enemy combatants in captivity are correspondingly much more difficult in civil wars compared to interstate conflicts.

Despite these dangers, there exists substantial variation in the treatment of combatants during civil wars. In a similar manner to interstate warfare, in some civil wars prisoners are indeed horribly abused. The 1936-1939 Spanish Civil War fought between Republican and Fascist Nationalist factions was typified by the systematic execution and torture of prisoners by both sides (Vance 2006:382). On the other hand, during Eritrea's struggle for independence, the Eritrean People's Liberation Front (EPLF) provided fairly decent care to surrendering Ethiopian troops (Killion 1998:347-348). EPLF actions are even more impressive given the fact that Eritrean prisoners were often not accorded the same degree of respect when they fell under Ethiopian control.

The prominence of civil wars in the current era, alongside some interesting differences in the treatment of prisoners across wars, suggests the need for a systematic examination of the causes of combatant abuse during civil wars in a similar manner to my focus on interstate conflicts. Several of the causes of combatant abuse presented in this study have likely corollaries when looking at civil wars. The severity of the fighting offers perhaps the closest similarity, since the logic of coercion or extraction may also hold in conflicts that degenerate into attritional-type warfare.

Territorial aims seem to offer a similar expectation of greater combatant abuse, though rather than adding new lands in the case of interstate wars, for civil wars the objective would more likely involve one group trying to secede from the existing state. The two cases briefly discussed above suggest that the relationship between territory and combatant abuse might not be so clear-cut in civil wars. After all, the EPLF was seeking to create its own independent state at the expense of Ethiopia, but the former chose to treat its prisoners about as well as could be expected. Although it certainly contained a territorial element, the Spanish Civil War was rooted more in ideological differences between the two sides, but this was more than enough to lead both parties to inflict enormous levels of brutality on their prisoners. The war in Spain also cautions against the hope that enemies sharing a common cultural heritage should be inherently more likely to show empathy with their adversary and correspondingly treat their prisoners in a humane manner. Differences between groups can be constructed on any one of a host of different fronts, and ideological clashes appear to have the potential to be just as deadly for prisoners as animosities based on race or ethnicity.

The role of regime type also provides a fairly straightforward parallel expectation that democracies should be less likely to commit combatant abuse, at least in the case of the incumbent government. However, as noted above each of the main mechanisms restraining democracies may not operate to the same extent in the context of civil wars. The relationship between democracy and the conduct of rebel groups is a little more intriguing, since in the peace and conflict literature democracy is generally viewed as an attribute of states rather than non-state actors.

The role of democracy in my theory of combatant abuse during interstate wars should perhaps be viewed more broadly as focusing attention on particular attributes of the actors themselves, whether they are states or rebel groups in hiding. Recent research has indeed found that particular characteristics of rebel organizations greatly

condition the type and level of violence they employ against civilians (Weinstein 2007:7).²⁷³ It remains an open question whether attention to the internal structures of rebel groups is also relevant for the study of treating enemy combatants during civil wars.

Civil wars might also provide certain incentives to actually care for prisoners that may ironically be weaker in the case of interstate wars. One motive in particular is the potential to lure an adversary over on to one's own side, which can likely be facilitated through decent treatment and persuasion of the righteousness of the captor's cause. On the other hand, large-scale abuse against the prisoner population will likely be less successful in gaining new adherents. The growing strength of nationalism over the course of the 19th and 20th centuries, which endures in many ways up to the present day, in many ways has made it much more difficult to persuade enemy combatants from an opposing state to switch sides in the context of an interstate war. Although identities are far from fluid in civil wars, opportunities may exist to bring enemy combatants over to one's side. For instance, one of the benefits of the EPLF's decent treatment of captured Ethiopian soldiers, was that the group was able to persuade many prisoners to join the rebel ranks and fight against their erstwhile leaders (Killion 1998:347).

The ways in which incentives over how to treat enemy combatants may differ under various types of conflicts deserves further scrutiny. An eventual theory of combatant abuse during civil wars may differ from the one I have put forward in this study on interstate conflict. As the brief discussion above suggests, however, such a theory would likely share many similarities with my own by focusing on particular

²⁷³ Though Weinstein also argues that the initial available endowment of resources similarly conditions the type of organization rebels are likely to construct in the first place.

types of incentives and factors that are considered to shape the conduct of state and non-state actors during the course of the given conflict.²⁷⁴

The War on Terror

Perhaps no issue related to prisoner rights has garnered greater attention in recent years than U.S. treatment of terrorist suspects and other insurgents in the War on Terror after the September 11th, 2001 terrorist attacks. The conflict began with the almost wholesale rejection of the prevailing laws of war. Presaging the policies to follow, just days after the attacks Vice-President Dick Cheney said that in fighting terrorist cells:

We also have to work, though, sort of the dark side, if you will. We've got to spend time in the shadows in the intelligence world. A lot of what needs to be done here will have to be done quietly, without any discussion, using sources and methods that are available to our intelligence agencies, if we're going to be successful. That's the world these folks operate in, and so it's going to be vital for us to use any means at our disposal, basically, to achieve our objective (Meet the Press 2001).

The implications of the vice-president's comments were clear that the United States would need to set aside certain domestic and international rules when dealing with a terrorist adversary.

These sentiments were later confirmed when the White House publically declared that neither combatants from the Taliban nor al Qaeda would be granted prisoner of war status under the Geneva Conventions, though efforts would be made to treat them humanely (Vance 2006:6). The conduct toward insurgent detainees suggests the promise of humane treatment has not always been met. Human rights groups have

²⁷⁴ The same point can also be made with reference to different types of abuse. Wood provides a similar approach incorporating a variety of factors, such as the incentives of the leadership, normative constraints, and unit-level attributes, in order to explore the use of sexual violence during war (Wood 2006:331-333). My approach focuses in several instances on similar factors thus shares many similarities with Wood's framework and points to the potential for a common theory of belligerent conduct across various issue areas during war.

argued that the United States has engaged in a systematic campaign of employing torture to extract intelligence from prisoners on terrorist activities, such as future attacks on the United States (Amnesty International 2004:23). This has been compounded by the use of rendition to send suspects to third-party countries known to use more permissive interrogation techniques for getting prisoners to talk (Forsythe 2005:133). Irrespective of how they were treated during interrogation, thousands of prisoners have also languished for years without charge or trial in an official policy of indefinite detention.

A full account of U.S. conduct in the War on Terror continues to change on an almost constant basis as new documents from the Bush administration's deliberations over prisoner policies are publically released.²⁷⁵ The available evidence suggests the democratic restraints put forward for interstate wars may have little effect in the case of the War on Terror and counter-insurgency operations more generally. Normative commitments to individual rights and humane conduct are particularly challenging when the very legitimacy of the enemy is called into question. One theme that continually emerges in the internal correspondence among U.S. policy makers was a common perception that they were facing a completely new sort of threat and enemy (Lewis 2005:xiii). Traditional democratic principles appeared to be easily put aside when dealing with such a severe threat to the U.S. government and its populace.

Debates over the legitimacy of the enemy also had implications for the strength of institutional restraints. Concerns over reciprocity are ultimately a function not only of the actual conduct of the adversary, but also expectations of how the enemy will behave. When perceiving a foe as entirely illegitimate, it follows that they will likely

²⁷⁵ Several large compendiums of leaked as well as officially-released government records from the early years after the September 11th terrorist attacks have been compiled (Danner 2004; Greenberg and Dratel 2005). These have been supplemented by several later releases and new evidence continues to come into the public light.

be viewed as either unwilling or unable to act in a humane manner. The targeted terrorist attacks against U.S. civilians suggested any U.S. soldiers would be treated just as brutally. In his justification for the choice to reject the application of the Geneva Conventions, White House Counsel Alberto Gonzales, asserted bluntly that any fears of retaliation against U.S. soldiers because of their government's policies were ridiculous because "terrorists will not follow GPW [Geneva Convention] rules in any event" (Gonzales 2002:3). Several other officials still pointed to the danger posed to U.S. soldiers in the field if the administration rejected the Geneva Conventions. Perhaps reflecting his earlier military experience, then Secretary of State Colin Powell argued that such an approach would "reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protection of the law of war for our troops, both in this specific conflict and in general" (Powell 2005 [2002]:123). Given the U.S. administration's final decision to set aside the Conventions, Powell's opinion was nevertheless by far the minority view.

Expectations over the nature and legitimacy of the enemy may also influence calculations over the relative strategic costs and benefits of abusing insurgent prisoners, such as through such acts as torture or indefinite detention. The amorphous nature of terrorist organizations like al Qaeda, along with the reliance on small groups for carrying out attacks, puts a much higher premium on obtaining intelligence from suspects. Officials like Cheney and others argued that only through the use of harsh interrogation methods could the United States extract the necessary information from prisoners to capture more terrorists and prevent future attacks against U.S. civilians and soldiers (Shane 2009:A14).

In a similar manner for the issue of indefinite detention, many proponents of the policy felt their beliefs were reasonable given the unique threat posed by terrorist detainees. Their concerns appear to have been partly justified by a leaked 2009

Pentagon report, which argued that one in seven of the detainees released from the Guantanamo Bay prison were later found to be engaged in terrorism or other militant activities (Bumiller 2009:A1).²⁷⁶ Neither of the institutional mechanisms appeared to offer much restraint against the resort to abuse by the United States. Taken together with other contributing factors, it is perhaps not surprising that the treatment of captured terror suspects has been below that in many interstate wars involving democracies.

Although an examination of conflicts other than interstate wars suggests that democracy might not provide much constraint against abuse, one final issue should be kept in mind when assessing the overall role of regime type. Just because democracies may be more likely to commit combatant abuse in such situations does not mean that regime type no longer matters. Taking the case of the war against the Taliban in Afghanistan, U.S. violations certainly occurred but they pale in comparison to the brutality of the Soviet Union during its counter-insurgency war in the same country from 1979 to 1989. Soviet forces frequently adopted a take-no-prisoner stance during combat operations, and captured fighters from the Afghan mujahideen were often sadistically tortured (O'Ballance 1993:161; Arreguin-Toft 2005:183). Wars against terrorists and insurgents may certainly make all types of captor states more likely to resort to combatant abuse, but it is still yet to be determined whether democracies are just as likely to escalate to higher levels of abuse as their nondemocratic counterparts. Gaining a more definitive perspective on this question would require a more systematic study of combatant abuse across these other types of warfare, which is beyond the overall scope of my study. Regime type might still continue to matter even

²⁷⁶ Though as Bumiller notes, there are equal concerns over the methodology of the report and the broader implications of the findings for the danger posed by released terror suspects to U.S. national security.

in these more destructive contexts, though this may provide little comfort to the greater number of victims that will likely suffer in any event within such wars.

Conclusion

My study of the causes of combatant abuse suggests that the lives of prisoners are often endangered, but that there are still grounds for optimism given many past instances of proper prisoner treatment. International norms proscribing the use of violence unfortunately appear to provide few protections to combatants in the custody of their adversary. The severity of the fighting itself, and in particular the aims countries seek to achieve through war, condition in various ways whether prisoners will ever be able to return home. Democracy appears to offer greater promise in protecting the rights of soldiers in captivity. However, as the overall analysis made clear, which is only reinforced by the preceding discussion of other types of war, the sources of democratic restraints are often highly contingent. As in many past conflicts, the decision of soldiers to surrender is often fraught with danger and will likely remain so for some time to come.

APPENDIX

Summary of Interstate Wars Used in the Quantitative Analysis of the Causes of Combatant Abuse, 1898-2003

War Name	Start Year	End Year
Spanish-American	1898	1898
Boxer Rebellion	1900	1900
Sino-Russian	1900	1900
Russo-Japanese	1904	1905
Third Central American	1906	1906
Fourth Central American	1907	1907
Spanish-Moroccan (Second)	1909	1910
Italo-Turkish	1911	1912
First Balkan	1912	1913
Second Balkan	1913	1913
WWIa (Western Allies-Central Powers)	1914	1918
WWIb (Russia-Central Powers)	1914	1917
WWIc (Romania-Central Powers)	1916	1917
WWId (Serbia-Central Powers)	1914	1918
Russo-Polish	1919	1920
Hungarian-Allies	1919	1919
Greco-Turkish	1919	1922
Franco-Turkish	1919	1921
Lithuanian-Polish	1920	1920
Sino-Soviet	1929	1929
Manchurian	1931	1933
Chaco	1932	1935
Saudi-Yemeni	1934	1934
Italo-Ethiopian	1935	1936
Third Sino-Japanese	1937	1945
Changkufeng	1938	1938
Nomonhan	1939	1939
WWIIa (Poland 1939)	1939	1939
WWIIb (Norway)	1940	1940
WWIIc (France)	1940	1940
Winter War (Russo-Finnish)	1939	1940
WWIIId (Germany- Western Allies)	1941	1945
WWIIe (Greece)	1941	1941
WWIIIf (German-Yugoslav)	1941	1941

*Summary of Interstate Wars Used in the Quantitative Analysis of the Causes of
Combatant Abuse, 1898-2003 (continued)*

War Name	Start Year	End Year
WWIIg (Eastern Front)	1941	1945
WWIIh (Pacific War)	1941	1945
WWIIi (Soviet-Japanese)	1945	1945
Franco-Thai	1940	1941
First Kashmir	1948	1949
Palestine	1948	1949
Korean War	1950	1953
Russo-Hungarian	1956	1956
Sinai	1956	1956
Assam (Sino-Indian)	1962	1962
Vietnam	1965	1975
Second Kashmir	1965	1965
Six Day	1967	1967
War of Attrition (Israeli-Egyptian)	1969	1970
Football (Soccer)	1969	1969
Bangladesh	1971	1971
Yom Kippur	1973	1973
Turco-Cypriot	1974	1974
Vietnamese-Cambodian	1975	1979
Ethopian-Somalian (Ogaden)	1977	1978
Ugandan-Tanzanian	1978	1979
First Sino- Vietnamese	1979	1979
Iran-Iraq	1980	1988
Falklands	1982	1982
Israel-Syria (Lebanon)	1982	1982
Second Sino- Vietnamese	1987	1987
Chad-Libya	1987	1987
Iraq-Kuwait War	1990	1990
First Gulf War	1991	1991
Nagorno-Karabakh	1992	1994
Ethiopia - Eritrea	1998	2000
Kargil	1999	1999
Kosovo	1999	1999
Afghanistan (Taliban-USA/Northern Alliance)	2001	2001
Second Gulf War	2003	2003

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